This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

LEX PAROCHIALIS;

OR,

A COMPENDIUM OF THE LAWS

RELATING

TO THE POOR,

WITH

THE ADJUDGED CASES ON

Parochial Settlements,

TO THE

SEVENTH YEAR OF THE REIGN OF HIS PRESENT MAJESTY KING GEORGE THE FOURTH.

COMPILED FROM THE BEST AUTHORITIES.

BY WM. ROBINSON, ESQ. LL.D.
OF THE MIDDLE TEMPLE,
AUTHOR OF THE "MAGISTRATE'S POCKET BOOK," "FORMULARIES," &c.

"The poor multiply in a rich country, because they do not support the burthen of society, but are themselves the burthen."
Montesquieu.

LONDON:
PRINTED FOR
CHARLES FREDERICK COCK,
21, FLEET-STREET.

1827.

LONDON:
PRINTED BY THOMAS DAVISON, WHITEFRIARS.

PREFATORY INTRODUCTION.

THE many valuable works, which of late years have been published on the subject of the Poor Laws, leave very little if any thing new to be offered on that subject, though so interesting in itself, and so important to the community at large.

The Author of this Volume, therefore, by compressing these various laws into a small compass, and presenting them to the reader at one view, has endeavoured to render a reference to all the points relating to the *relief* and *settlement* of the poor at once expeditious and satisfactory.

It is not his intention to dilate much on this subject, as the whole body of the law, as far as it regards the *relief* and *settlement* of the poor, is to be found in the following pages. But as the history of the times, in which these

laws were framed, will best illustrate the nature and design of the laws, to which they gave rise, and as the laws themselves offer the best commentary on the history of the times, he has thought proper to introduce the subject by a concise and summary account of the origin and progress of the Poor Laws, from the earliest enactments to the present time.

Under the Anglo-Saxon monarchy measures had been adopted for the relief of the *indigent*. *Athelstan*, the grandson of the great *Alfred* and the heir of his virtues, who succeeded to the crown in the year 925, ordained that "*one poor English man should be maintained from the product of every two farms in his domain.*" And even during the earlier periods of the Norman dynasty, when the feudal system existed in its full vigour, such was the relation between the lord and his vassals, as to preclude the very idea of legal intervention for the poor. As on the one hand they were bound to cultivate his lands, so on the other they constituted a part of his baronial dignity, and engaged his care and protection.

Here, then, was no room for either parliamentary regulation or indiscriminate charity. But when the feudal system began to be relaxed by the policy of succeeding kings, who dissolved the tie which bound together the nobles and

their vassals, there arose another description of persons, who were neither rich themselves, nor the dependents of those who were. Many of these, by the ever-changing circumstances of the times, were compelled to recur to the benevolence of others from *age*, or *sickness*, or other *accidental* causes. These had no resources but the voluntary donations of the rich. Accordingly we find, that, for a long series of years, the poor were entirely dependent on the casual liberalities which they solicited at the baronial castles, or the more regular donations, which Christian charity afforded them at the gates of the religious Houses.

This, however, became a source of incalculable evil; for amongst other bad effects resulting from this indiscriminate charity, it was not, perhaps, one of the least, though frequently esteemed otherwise, that they supported and fed a very numerous and *idle* poor, who declined all personal labour for their maintenance, as they found an ample sustenance, in what was daily distributed in alms at the gates of the Monasteries. This, however, became a source of continual evil.

By the common law, the poor were to be *sustained by parsons, rectors of the church, and the parishioners, so that none of them die for*

default of sustenance *." Impropriators were obliged to distribute a yearly sum to the *poor parishioners*, and to keep *hospitality* †.

By one ancient statute ‡, none should give alms *to a beggar able to work;* and by two several statutes §, the poor were directed to abide in the cities and towns where they were born, or in those wherein they had dwelt for three years ‖; which seems to be the origin of parish settlements.

But so far all appears to have been optional, rather than obligatory, and to have left the poor dependent on private and voluntary benevolence; for it was not till the 27 Hen. 8. c. 25, that any compulsory measure was adopted for their relief, when provision was ordered to be made for the *impotent* poor.

On the dissolution of the monasteries by King Henry VIII. the inconvenience of encouraging the poor in habits of *indolence* and *beggary* was immediately felt throughout the kingdom, and abundance of statutes were made in the reign of

---

* Mirror, c. 1. s. 3.

† 15 Rich. 2. c. 6; 4 Hen. 4. c. 12.

‡ 23 Edw. 3. c. 7.

§ 12 Rich. 2. c. 7; and 19 Hen. 7. c. 12.

‖ 1 Edw. 6. c. 3. *see p.* 220.

that monarch and his children, for providing for the poor and *impotent*. These poor were principally of two sorts; the *sick* and *impotent*, who were therefore *unable* to work; and the *idle* and *sturdy*, who were therefore able, but were *not willing* to exercise any honest employment. To provide in some measure for both of these, in and about the metropolis, King Edward the VI. founded three royal hospitals, *Christ's* and *St. Thomas*, for the relief of the *impotent*, through *infancy* or *sickness*, and Bridewell for the *punishment* and *employment* of the *strong* and *idle*.

But as these were designed for merely local purposes, they were far from being sufficient for the care of the poor throughout the kingdom at large; and therefore, after many other fruitless experiments, *overseers of the poor* were appointed* in every parish, whose office and duty are principally these: *first*, to raise competent sums for the necessary relief of the poor who are *impotent*†, *old*, *blind*, and such others not *able* to

---

* By 43 Eliz. c. 2.

† The word *impotent* here applies to those who are unable to maintain themselves, on account of being *out of employment*, or being *unable* to obtain *a competent sum* as wages, as well

work, and them *only*; and *secondly*, to provide *work* for such as are able, and cannot otherwise get employment. But this latter part of their duty, which, according to the wise regulations of that salutary statute, should go hand in hand with the other, is now most shamefully neglected*.

Notwithstanding the great pains, that have been taken in constructing the poor laws, these laws still remain very *imperfect* and *inadequate* to the purposes for which they are designed; a fate that has generally attended most of our statute laws, where they have not the foundation *of the common law* to build upon †.

When the *shires*, the *hundreds*, and the *tithings* were kept in the same admirable order, in which they were disposed by the great *Alfred*, there were no persons idle, consequently there were none but *the impotent*, that needed relief; and the stat. 43 Eliz. seems entirely founded on this principle; but when this excellent scheme was neglected and departed from, many miserable shifts and lame expedients have from time to time been adopted

---

as those who are *incapable* of working, from the want of *bodily* power. See Waltham v. Sparks, Skin. 556. Comb. 320, SC.

* Comm. c. 9. pp. 359, 360. † Ibid.

in order to patch up the flaws occasioned by this neglect *.

There is not a more necessary or certain maxim in the frame and constitution of society than that *every individual* should contribute his share in order to the well being of the community: and surely they must be very deficient in sound policy, to suffer *one-half* of a parish to continue *idle*, *dissolute*, and *unemployed*, and at length are amazed to find that the industry of *the other half* is not able to maintain the whole †.

There are several statutes previous to the 43d of Elizabeth, which throw some light on the long *agitated* question, whether overseers of the poor are or are not justified in giving *pecuniary* relief to the able-bodied poor when out of employment, without setting them to work; but there is no express power to give such relief to such persons contained in any of those statutes: and when the various steps are examined by which the legislature gradually advanced from their first crude provisions to the more mature enactments of the 43d of Elizabeth, it appears that *no such power* was, down to that time, given even by *implication*.

---

* Ibid. † Ibid. *ad finem*.

Soon after the passing of the 43 of Elizabeth, c. 2, certain resolutions commonly ascribed to her majesty's justices at *Westminster*, were pretty generally known and considered as tending to the right execution of the law *.

The 8th and 9th of those resolutions are applicable to the question, whether overseers of the poor can or not give relief in money. "If the parents be able to work, and may have work, they are to find their children by their labour, and not the parish; but if they are overburthened with children, it shall be a very good way *to procure* some of them to be placed out *apprentices* according to the statute."

"No man is to be put out of the town where he dwelleth, nor to be sent to their place of birth (or last habitation), but *a vagrant rogue*, nor to be found by the town, *except the party be impotent*, but ought to set themselves to labour, if they be able and can get work, *if they cannot, the overseers must set them to labour*."

There is not in any of these resolutions (twenty in number) any recognition *of a power in the overseers to give relief to able bodied persons otherwise than by finding them employment.*

---

* See Lambard's Eirenarcha, chap. vii. p. 206.

In all the statutes previous to the 43d of Eliz. c. 2, there is not a single enactment which gives colour to the idea that any persons are entitled to relief in money, unless as a remuneration for their labour; except those who are unable to work, by which *a physical inability* must be understood.

No material alteration was made by any of these statutes, until the whole of them were embodied in the 43d of Elizabeth, c. 2, the first section of which enacts, "*that the overseers should raise weekly or otherwise, by taxation, a convenient stock of flax, hemp, wool, thread, iron, and other necessary ware and stuff, to set the poor at work, and also competent sums of money for and towards the necessary relief of the lame, impotent*, old, blind, and such other among them, being poor and not able to work, and to do and execute all other things, as well for the disposing of the said stock, as otherwise concerning the premises, as to them shall seem convenient.*"

By the 59 Geo. 3. c. 12, s. 12, it is stated in the preamble, that although the churchwardens and overseers of the poor are directed to set to work certain poor persons therein described, yet

---

* See note, p. vii, ante.

by the laws now in force no sufficient powers are given to the parish officers to enable them to keep such persons *fully* and *constantly* employed; and enacts "*that it shall be lawful for the churchwardens and overseers of the poor of any parish, with the consent of the inhabitants thereof in vestry assembled, to take into their hands any land or ground which shall belong to such parish, or to the churchwardens and overseers of the poor of such parish, or to the poor thereof, or to purchase, or to hire and take on lease for or on account of the parish, any suitable portion or portions of land within or near to such parish, not exceeding twenty acres in the whole, and to employ and set to work in the cultivation of such land, on account of the parish, any such persons as by law they are directed to set to work, and to pay to such of the poor persons so employed, as shall not be supported by the parish, reasonable wages for their work; and the poor persons so employed shall have such and the like remedies for the recovery of their wages, and shall be subject to such and the like punishment for misbehaviour in their employment, as other labourers in husbandry are by law entitled and subject to.*"

And the same statute (*sect.* 13) empowers the parish officers, *for the promotion of industry* amongst the poor, to let any portion of such

parish land or lands, so to be purchased or hired, on account of the parish, to any poor and *industrious* inhabitant of the parish, to be by him occupied and cultivated on his own account and for *his own benefit at a reasonable rent*, and for such term as the inhabitants in vestry shall fix and determine.

Chief justice Abbot, in a recent case * before the court of King's Bench, on an appeal from the sessions against the allowance of the overseers' accounts, said, "it is the *imperative* duty of churchwardens and overseers to use all their endeavours *to procure employment* for the poor. And I express this opinion now principally for the sake of the poor themselves, to whom no greater kindness can be done than by enabling them to earn their own living *by labour*, instead of suffering them to eat the bread of idleness, by which *their habits and morals must soon be corrupted.*"

This was a case in which the appellant was proprietor of a considerable estate in the parish. In consequence of the extreme depression of the price of agricultural produce, the farmers had been rendered unable to make any improvement

---

* Rex v. Collett, clerk, M. T. 1823. 2 B. and C. 324. Dowling and Ryan, vol. ii. p. 135.

on the lands, and consequently employed very few labourers, by which a considerable part of the labouring population had been totally unemployed; and during this period, all poor persons belonging to the parish, who had been unable to obtain employment, had received *money* for their maintenance from the parish officers in proportion to the number of their respective families, for which *no labour* had been required from them. The appellant being dissatisfied with this application of the parish funds, appealed against the allowance of the overseers' accounts; and after much argument on both sides, it not appearing upon the case before the court that the overseers of the poor considered themselves bound to provide work for the unemployed poor, if that were practicable, nor whether they in any way had endeavoured to attain that object: and before the court would determine, whether the overseers were or were not justified in giving *pecuniary* relief to the unemployed poor, the case was sent down to the sessions again, that they might inform the court of King's Bench whether *any* and *what endeavours* had been made by the overseers of the poor, to procure *employment* for them.

The return made by the sessions to the court of King's Bench, was to the following effect; "That according to the evidence adduced, the

court * is of opinion, that the parish officers *did not use due diligence* to find *employment* for their poor." But the decision of the court on this important point has *not yet been called for*. It may therefore be reasonably inferred, that overseers of the poor are not justified in giving relief in money to the *able-bodied unemployed poor;* but that they are *bound* to provide work for them, or at least to use their *best endeavours* to do so; and then, probably, in the failure of such endeavours, they *may be justified* in giving such *temporary pecuniary* relief as the *necessity* or *emergency* of the case calls for: but there is no doubt from all that can be collected, both from the ancient as well as the recent statutes regarding the ordering of the poor, that the churchwardens and overseers of the poor are *not justified* in giving relief in *money* in *ordinary* cases, but that they are bound *to use their utmost endeavours to provide work*, as well within as out of their parish, for such of the poor as are *able* to work, and then pay them for their *labour* in money; and *those only* to whom the overseers ought to give *pecuniary* aid, are the *lame, impotent, feeble, sick, and dis-*

* Ipswich, Epiphany Quarter Sessions, 16th January, 1824.

eased poor, being *unable* to work. It is not insisted that the overseers of the poor are bound to find *productive* labour, but it must at the same time be considered that, that labour which prevents a man *able* to work from being *idle*, cannot be called unproductive *.

Having adduced so many acts relating to the relief of the poor, and given a full and explicit opinion of my design, any farther notice of the subject will now be dismissed with this single expression of hope, that from its vast *importance* the legislature will speedily take into their consideration the necessity of revising the poor laws, and make such effectual enactments, as shall relieve the *distresses of the poor*; and at the same time *exempt* the parishioners from their present almost *insupportable* burthens. This will be a truly national blessing, which will extend at once to

---

* It appears by the dicta of C. J. Abbott, and Mr. Justice Best, *that the poor may be employed in any manner, whether it be by levelling hills and improving roads, or pounding oyster shells, or by plucking weeds from the hedges, to prevent their disseminating among the corn, is immaterial, so that they are employed.* See the case of Rex v. Collett, note, p. xiii.

the *rich* and *poor*, and reconcile the most opposite and conflicting interests of the public at large.

The Author has given extracts from the adjudged cases on the Settlement of the Poor, with references, so that the reader may at once see the *gist* of the case, and refer to the authorities.

In concluding this preface, the Author takes the opportunity of using the words of the learned *Lord Bacon*,

"*I wish every man knew so much law as would enable him to keep himself out of it.*"

Middle Temple,
June, 1827.

CONTENTS.

Page

APPRENTICES.

Parish binding, . . . 1
Registering the Indentures, . . 11
Money given to bind, . . 12
To the Sea-service, . . 14
Chimney-sweeper, . . . 19
Difference between, and their Masters, 20
Master dying, . . . 23
Absenting themselves, . . 25

APPRENTICESHIP, Settlement by, . 273
As to the Instrument, . . 276
Parties, . . 277
Binding and Allowance by the Justices, . . . 279
Stamp-duty, . . . 281
Consideration and Duty paid, ibid.
Contract, . . . 284
Residence, . . . 285

Page

APPRENTICESHIP.

As to the Residence of Seafaring Persons, 287
Of Service with different Masters without Assignment of the Indentures, 288

BASTARDS.

Of securing the reputed Father, and indemnifying the Parish, . . 139
As to the Bond of Indemnity to the Parish, ... 144
As to the Order of Filiation, . . 148
Form of the Order, . . 155
Appeal against the Order, 160
Right to the Custody of the Child, ... 161
Punishing the Mother of, . . 162
Father or Mother running away, . 165
As to the Settlement of, . . . 223
Born under Certificate, . . 225
How far removeable from the Mother, 226

CHURCHWARDENS.

The Origin of the Office of, . . 30
Persons exempt from serving the Office of, ... 31
The Oath of Office, ... 32
Their Duty as to Church Rates, . ibid.
As to repairing the Church, and of the Seats, ... 36

GAOL Passes and Guardians. See Poor, 211, 213

Page

OVERSEERS.

For what Places to be appointed . 37
Who may be appointed, . . 41
Of the Nomination and Appointment, and by whom, . . . 46
Of obtaining, enforcing, or avoiding the Appointment, . . . 49
The Constitution and Incidents of Office, 52
General Duties and Powers of, . 53
Protection in Office, ... 54
As to their receiving Possession of Parish Houses, &c. . . . 58
Their Accounts, . . . 195

PASSES. See GAOL, . . . 211
Of the Certificate, Route, &c. of Persons discharged from Gaols, . . 213

POOR, Guardians of, under the 22 *Geo.* 3. *c.*83, 177

POOR RATE.

Who are to make a Poor Rate, . 61
The Purposes of, . . . ibid.
Time for which it may be made, and as to reimbursing the Overseer, 63
Upon whom it may be made, . ibid.
Beneficial Occupancy, . . . 66
Land, Houses, &c. . . . 71
Tithes, ... 73
Manorial Profits, . . . ibid.
Woods, ... 75

Page

POOR RATE.

Commons, . . . 76
Extra Profits from Land, . . 77
Docks, Canals, Tolls, &c. . . 78
Where Property is to be rated, . 79
The Proportion under which the Rate is to be made, . . . 82
The Form of a, . . . 84
Publication of, . . . 86
Inability to pay, . . . 87
Appeal, . . . ibid.
Distraining, . . . 91
Taxing in aid of, . . . 94

POOR RELIEF.

As to Parents and Children maintaining each other, . . . 96
The order of Maintenance, . . 97
Relief by enclosing Wastes, &c. . 99
Mode of relieving and ordering of the Poor, ... 100
Appointment of a Governor of the Workhouse, . . . 120
Relief of Persons confined for Debt, 129
Of Lunatic Paupers, . . . ibid.
Of Militia-men's Wives and Families, 133
Assignment of Persons in discharge of the Parish, . . 138

POOR, Settlement of, . . 220
Illegitimate Children, . 223

Page

POOR.

Settlement of Bastards born under Certificate, . 225
Evidence relating to Legitimacy, . . . 229
Derived from the Mother during the Lifetime of the Father, . . 231
Emancipation of Children, . . . 232
As to Settlement by Marriage, . 237
Hiring and Service, 241
Who may, or may not, acquire such Settlement, ... 242
What is a Hiring for a Year, . 245
Of the Year's Wages, . . 248
Month's Warning, . . ibid.
Going on Liking, . . ibid.
As to Retrospective Hiring, . ibid.
Hiring for a Year under particular Conditions as to Service, ibid.
Limited or colourable Hirings for the purpose of avoiding, . 250
Hiring with Leave of Absence, 251
Stipulation as to Working Hours, 253
Weekly and Monthly Wages and Notice, . . . 255
Wages and Notice, . . 257
What is a Service for a Year, . 258
Connected Service under different Hirings, ... 259
Change of Master, . . 261

Page

POOR.

Of Dispensation of Service, . 262
Dissolution of, . . . 266
As to Residence, . . . 270
Statutes relating to Settlement of the, 273
Service under actual Assignment of the Indentures, . . . 294
Service and delivering up of the Indentures, or made void by the Acts of the Parties, . . . 296
Delivering up Parish Indentures, . 297
Apprenticeship under Certificates, . 299
As to the Evidences relating to Indentures of Apprenticeship, . 300
Settlement by renting a Tenement, 301
What constitutes such a Tenement as will confer a Settlement, 303
As to the Nature of the Tenement, and how the Value is to be ascertained, . . 311
Value of Stock on a Tenement not to be computed as Rent, . ibid.
Divided Tenements, . 313
Joint Occupation, . . 315
Payment of Rent, . . 316
Time and Place, . . . 318
The Time for which the Contract is made, . . 320
Settlement by Fraud, . . 321
Estate, . . ibid.
Of the Value of the Estate, . ibid.
Of Infants, . . . 322

Page

POOR.

Of Executors and Administrators, . 322
The next of Kin, . . ibid.
Joint Tenants, . . . 324
Trusts, ... ibid.
Estates vested in the Husband by Marriage, &c. . . ibid.
Estates gained wrongfully, or by imperfect Contracts, . . 327
The Profits partaking of the Reality, 328
Mortgages, . . . ibid.
Estates by Purchase, . . 329
Settlement by a Residence, by a Mortgagee, . . 332
Money laid out on the Premises, . 333
Of certificated Persons gained, by Residence on his own Estate, . ibid.
Of Residence on a Man's own Estate, . 335
By serving an Office, . 336
What Office will confer a Settlement, ibid.
Of the Time, . . . 340
The Residence, . . . ibid.
By paying Rates and Taxes, . 341
Of the Inhabitancy, . . 342
Who shall be charged, . . 343
Refunding to the Tenant, . . 344
The Land Tax, . . . 345
Settlement, by Acknowledgment, by Certificate, . . . 347

Page

POOR.

Settlement. Of the Delivery of the Certificate, . . 354
Protection by Certificate from Removal, . ibid.
To what Persons it extends, . . 355
The Effects of, . 357
Continuance of, . 358
Of removing certificate Persons, . . 361
Apprentices under Certificate, . . ibid.
Acknowledgment of Settlement by Relief, . ibid.

REMOVALS, ... 363
Who may, or who may not be removed, . . . ibid.
Removal of a Wife, . . 367
Servants, . . 369
Under the 35 Geo. 3. c. 101, 370
Of Casual Poor, . . . ibid.
Poor Persons to Scotland and Ireland, . . 371
Of the Order of Removal, . . 378
Complaint to the Justices, . 379
Style and Jurisdiction of, . ibid.
The County, . . . 361
Description of the Pauper, . ibid.
Examination of, . . 382
Suspending the Order of, . 385

Page

REMOVALS.

Paupers returning after Removal, 391
The Removal of Certificate Persons, and Reimbursement of the Overseers, . . . 392
The Appeal against the Order of, 393
To what Sessions the Appeal must be, 394
The Adjournment of Appeal, . 395
Notice of Appeal, . . ibid.
Order of Removal unappealed against, 396
Entering the Appeal when the Order is executed and superseded, . 397
What Facts are conclusive, when an Order is unappealed against, . ibid.
Of confirming or quashing the Order upon the Merits, . . 398
For want of Form, . . . 399
Of the Judgment of Justices in Sessions upon the Order, . . 400
Costs, and Maintenance, . . 403
Of the County Rate, . . 404
Perambulating the Parish, . ibid.
The Highways, . . . 405
Special Sessions for, . . ibid.
Of Individuals bound to repair in respect of an Inclosure, . . 413
By Prescription, . . . 414
Private Persons, . . 416
Of the Proportion, . . 417
Working, . . . 429
How to procure Materials, . . 432
Of Obstructions and Annoyances, . 437

Page

HIGHWAYS.

Direction Post, &c. . . . 446
Breadth of Wheels, and Number of Horses, ... 447
Widening, changing, and diverting Highways, . . 450
Assessments for, how to be made, 462
Resisting the Execution of the Act, 465
Penalty on a Surveyor neglecting his Duty where no particular Penalty is imposed, . . . ibid.
The Surveyor's Accounts, . ibid.
Presentment or Indictment of a Highway in general, . . . 468
By a Justice, . . 470
Of Levying Assessments, Fines, &c. . 471
Of Appeal, . . . 475
Limitation of Actions, . . 477

TITHES.

Small Tithes due from any Person, . 477
Tithes, Church-rates, &c. due from Quakers, ... 480

VESTRY.

Of the Regulation of Parish Vestry, (*not select*) . . 166
Select Vestry, . . . 171
Of the Vestry Clerk, . 176

CHARITABLE DONATIONS.

Of the registering and securing, . 482

Page

WEIGHTS AND MEASURES, . . 486

MEASURES, ... 488

CONSTABLES, ... 448
The Appointment of, . . ibid.
Choosing and swearing of, . . 495
The Power of, as a Conservator of the Peace, ... 498
Of the Expenses of, in doing the Business of the Parish, . . ibid.
The Fees of, . . . 501
Of the Parish Clerk, . . 503
Sexton, . . 504
Beadle, . . 505

ADDENDA.
Bastards, ... 507
Settlement by Apprenticeship, . ibid.
Renting a Tenement, . ibid.
Hiring and Service, . 508

LEX PAROCHIALIS.

LEX PAROCHIALIS.

Parish Apprentices.

1. The churchwardens and overseers of the poor, or the majority of them, with the consent of *two* justices of the peace, may bind the children of poor persons who have attained the age of nine years or upwards (*by* 56 *Geo.* 3. *c.* 139, *s.* 7.) who are not able to maintain them (*see pl.* 26. *p.* 7, *post*), to be apprentices until the age of twenty-one years, *if males*, (18 *Geo.* 3. *c.* 47), and if females until that age, or marriage. 43 *Eliz. c.* 2, *s.* 5.* (A.D. 1600). Power of parish officers to bind poor children.

2. But before any such poor child shall be so bound apprentice, he shall be taken before *two* justices of the peace of the county in which the parties shall be situated, who are to inquire whether the person to whom it is intended to bind the apprentice resides within a reasonable distance, and into any other circumstances of the binding; and if they think fit they may examine the parents as to the distance of the place of business, and also into the circumstances and character of the master, and then, if they think proper, they may make an order for the binding of the poor child, which order must be referred † to in How parish apprentices are to be bound.

* Intituled "An act for the relief of the poor."

† This is compulsory, and therefore an indenture in which the date of the order is omitted is void, and no settlement can be gained under it. *Rex v. The Inhabitants of Bawbergh, T. T.* 1823. 2 *Barnewall and Creswell's Reports*, 222.

the indenture, and signed by the justices before the execution of the indenture. 56 *Geo. 3. c.* 139.* (passed 2d July, 1815, *but the act did not commence until the* 1*st of October,* 1816).

Child not to be apprenticed beyond forty miles out of the county.

3. No such child shall be bound out of the county at a greater distance than *forty* miles from the parish to which the child shall belong, unless the child belongs to a parish which shall be more than *forty* miles from the city of *London;* in that case, the justices who authorise the apprenticing of the child are to make a *special* order for that purpose, and in which they are to specify the grounds on which they allow the apprenticing of the child at a greater distance than *forty* miles. *Ibid.*

The indentures must be allowed by justices of the peace.

4. The indentures must be allowed by *two* justices of the county or jurisdiction *into* which the apprentice is to be bound, as well as by *two* justices of the county or jurisdiction *from* which he is bound. *Ibid. s.* 2.

Allowance of justices of the county valid in towns.

5. The allowance by the county magistrate is valid in *towns* or *liberties,* within which other justices of the peace, in other respects, have exclusive jurisdiction. *Ibid. s.* 3.

Distance not limited to cities.

6. The distance to which apprentices may be bound is not limited to *cities* and *boroughs,* being counties of themselves. *Ibid. s.* 4.

7. No settlement shall be gained by any such apprentice by apprenticeship unless the order is made and the allowance signed as aforesaid. *Ibid. s.* 5. (*see note* †, *page* 1).

Penalty on parish officers binding parish children without the order and allowance.

8. Overseers binding an apprentice without having obtained such order and allowance shall forfeit ten pounds for each apprentice, to be recovered by informations before *two* justices of the county or district where the offence is committed, and the justices (after deducting the necessary costs and charges) may direct the penalty to be paid either to the person giving the information, or to the overseers of

---

* Intituled "An act to regulate the binding of parish apprentices."

the poor of the parish where the offence was committed, for the use of the poor, or in the binding the apprentice to another master, or to be distributed and applied for any one or more such purposes as the justices think fit; and in case of nonpayment of the penalty, the same may be levied by distress and sale of the offender's goods (*see pl.* 12, *p.* 4.) by warrant under the hands and seals of the convicting justices, and for want of distress the offender may be committed to the common Gaol or House of Correction for not less than *one,* nor more than *six* months*. *Ibid. s.* 6, 12, 13, 14. (*and see pl.* 12. *p.* 4, *post, as to non-payment of penalty and appeal).*

The like penalty on the master taking an apprentice without order and allowance.

9. And the master taking an apprentice without such order and allowance is liable to the like penalty, which may be recovered and applied as in the last *placita. Ibid.*

Master moving out of the county, or beyond forty miles.

10. A master moving out of the county, or *forty* miles from the parish where the apprentice was bound, must give *fourteen* days notice to the parish officers where the apprentice resides, or by which he is certificated, and the master must take the apprentice before *two* justices of the peace for the county in which the apprentice shall be then serving, who are to inquire into all the circumstances, and may either order the apprentice to continue, or discharge him from the apprenticeship, or for the binding or assigning the apprentice to another master at their discretion; and if they see cause they may require the person giving notice of such removal to pay the amount of the premium received with the apprentice, or so much as they think proper for the expense of

---

* Where the word *month* is used in a statute without the addition of "*calendar,*" or words to show that the law intended a *calendar month,* it is to be understood to mean *a lunar month,* or *twenty-eight days.* In all *temporal* matters the word month means a *lunar* month, but in ecclesiastical matters it is considered to be a *calendar* month, because in these matters a different mode of calculation prevails.

Indentures valid if executed by officers of a township, &c.

19. And such indentures shall be as valid if signed and executed by the overseers and churchwardens of *any township*, &c. or the major part of them, as if they had been signed and executed by the overseers and churchwardens of the parish where such township, &c. is situate, or the major part of them. *Ibid. s.* 2.

Not to affect the settlement.

20. Not to affect the settlement of any person removed by order of justices before the passing of this act. *Ibid. s.* 3.

Indenture executed by one churchwarden, &c. for a township, &c. valid.

21. All indentures for binding parish apprentices and certificates of the settlement of poor persons, which have been previous to the 28th May, 1821, executed or signed by *one* churchwarden or chapelwarden, for any parish, township, hamlet, or chapelry, or place in *England*, for which *two* churchwardens, &c. had formerly been appointed, shall be valid as if the same had been executed by *one* or *more* churchwardens or chapelwardens, &c. legally appointed; but not to extend to affect decisions already made, or the settlement of any poor person removed by the order of justices previous to the passing of this act. 1 and 2 *Geo.* 4. *c.* 32, *s.* 1, 2.* (passed 28th May, 1821).

The consent of the justices.

22. The consent of *two* justices under the 43d *Eliz. c.* 2, *s.* 2 (*pl.* 4. *p.* 2, *ante*), being a *judicial* act, must be given in the presence of each other. *Rex* v. *Hamstall Ridware*, 3 *Term Reports*, 381. 1 *Bott.* 620.

If one justice signs and is afterwards present, it will be sufficient.

23. But if *one* magistrate signs the indenture when alone, and he is afterwards present when it is signed by the *other*, and they both agree as to the propriety of the binding, it is sufficient. *Rex* v. *Winwick*, 8 *Term Reports*, 454. 1 *Bott.* 625.

---

dentures for the binding of parish apprentices, and certificates of the settlement of poor persons."

* Intituled "An act for declaring valid certain indentures of apprenticeship and certificates of settlement of poor persons in *England*."

24. A master having executed the counterpart of the indentures of apprenticeship, which were at the time signed by *one* justice only, and afterwards, when produced, they appeared to be allowed by *two* justices, held he could not be allowed to contradict his own deed. *Rex* v. *Saltern. Caldecott's Reports of Settlement Cases*, 414. 1 *Bott.* 613.

Master executing the counterpart of the indentures which were signed by one justice only.

25. The 43d of *Eliz. c.* 2. *s.* 5, as to the consent of *two* justices, applies *only* to the apprenticing of poor children *in a compulsory way;* where the binding is by consent, the statute does not extend to it, and therefore the allowance of the justices is unnecessary in such case, and an infant may bind himself and make an indenture for his own benefit. *Rex* v. *St. Mary's, Reading. Cases in the K. B. concerning Poor*, 77. 1 *Bott.* 605.

The consent of justices applies only to poor children.

26. Parish officers have a *discretionary* power to select such children when *they* think their parents are unable to maintain them. *Rex* v. *Crosse. Comberbach's Reports*, 289. 1 *Bott.* 604. (*See p.* 1, *pl.* 1. *ante*).

Power of parish officers to select children.

27. An infant pauper may bind himself apprentice by indenture for his own benefit, though he is a pauper in a parish workhouse at the time of binding, and the parish officers pay the premium, yet it is not necessary that *they* should sign the indenture, or that the *justices should consent*, if the apprentice is *not a parish apprentice in the meaning of the* 43*d of Eliz. c.* 2, *s.* 15. *Rex v. Arundel, T.* 56 *Geo.* 3. 5. *Maule and Selwyn's Reports*, 257. (*and see p.* 4, *pl.* 7, *c.* 8. *ante*).

An infant pauper may bind himself apprentice for his own benefit.

28. In all parish indentures, where no more than *5l.* is given as a premium, there must be a proviso annexed to the covenant for maintenance, declaring that the covenant shall not be in force longer than *three calendar* months after the death of the master, in case he dies during the term of the apprenticeship; and if such proviso is omitted the covenant for maintenance shall cease at the end of such *three calendar* months. 32 *Geo.* 3, *c.* 57.*

There must be a proviso in parish indentures that the covenant for maintenance shall not be in force longer than three months after death of the master.

* Intituled "An act for the further regulation of parish apprentices."

Refusing to receive and provide for a parish apprentice according to the indentures.

29. Where a poor parish child is bound out apprentice, the person to whom he shall be bound shall receive and provide for him according to the indentures signed by the justices; and in case of refusal so to do, then, on the oath of one of the churchwardens or overseers, before any *two* justices, he shall forfeit the sum of 10*l.* to be levied by distress and sale of the goods of the offender, to the use of the poor of the parish where the offence is committed. 8 and 9 *W. c.* 30, *s.* 5.*

Appeal.

30. Persons to whom such poor children are bound may appeal to the justices at the *next* general or quarter sessions of the county, whose order shall be final. *Ibid.*

Party may be indicted for disobeying the order of justices.

31. Although the penalty may be levied by distress, yet the party may be indicted for disobeying the order of the justices, either in not receiving, or, receiving, afterwards turning off, or not providing for a parish apprentice. *Rex* v. *Gould,* 1 *Salkeld's Reports,* 381. 6 *Modern Reports,* 164. 1 *Bott.* 605.

Parish officers the best judges who are fit to be masters.

32. The churchwardens and overseers having the power to place out poor children, they are the best judges who are fit persons to be their masters; and those are, all persons who, by their profession or manner of living, have occasion to keep servants; but they are to be approved of by the justices, and if the master is dissatisfied he may appeal to the sessions. *Watkin's Justice,* 58, *p.* 143.

Master obliged to take parish apprentice.

33. The justices may oblige a master to take a parish apprentice. *Anonymous,* 1 *Bott.* 604.

Gentlemen and clergymen liable to take parish apprentices.

34. Gentlemen of fortune and clergymen are equally liable with others to take parish apprentices. 1 *Blackstone's Commentaries,* 426.

Occupiers of tithes.

35. So are occupiers of tithes. 2 *Nolan's Poor Laws,* 221. *Rex* v. *Saltren, Caldecott's Reports of Settlement Cases,* 444.

Officers in the army.

36. But officers in the army, residing in barracks or elsewhere, under military law, are not liable to have parish apprentices bound to them. 6 *Geo.* 4. *c.* 5, (*the mutiny act*), *s.* 114.

---

* Intituled "An act for supplying some defects in the laws for the relief of the poor of this kingdom." (A. D. 1696-7).

37. Persons occupying lands in one parish, but residing in another, are bound to take parish apprentices. *Rex* v. *Clapp, H.* 29 *Geo.* 3. 3 *Term Reports,* 107, 523. 2 *Bott.* 619. Persons occupying land and residing out of the parish.

38. Persons holding lands in partnership, one residing and occupying the same, the other residing at a distance and in another parish, the latter as well as the former are liable to take parish apprentices. *Rex* v. *Barwick, M.* 37 *Geo.* 3. 7 *Term Reports,* 33. 1 *Bott.* 624. Holding lands in partnership.

39. If a master is convicted of misusing his apprentice, he is not to have another bound to him; but when he ought and should be compellable to take a parish apprentice, *two* justices of the county, &c. on application by the churchwardens and overseers, may order him to pay to the churchwardens and overseers any sum not exceeding 10*l.*, and less than 5*l.*, for binding out such poor child (intended to be bound) an apprentice; and on his refusing to pay, the justices may levy the same by distress, together with expenses. 32 *Geo.* 3. *c.* 57, *s.* 12. Master misusing his apprentice.

40. A master is not compellable to give an apprentice *forced* upon him wages or clothes at the end of the term. *Reg.* v. *Wagstaff, Foley's Poor Laws,* 205. 1 *Sessions Cases,* 48. 1 *Bott.* 605. Master not obliged to give apprentice wages or clothes.

41. Parish apprentices forced upon masters may be assigned by indorsement on the indenture, or otherwise, without stamp, with the consent of *two* justices. 32 *Geo.* 3. *c.* 57, *s.* 7, 10. Parish apprentices may be assigned.

42. *Two* justices may discharge parish apprentices with whom no more than 5*l.* was given, where their masters become insolvent, or so far reduced in circumstances as to be unable to employ or maintain them. *Ibid. s.* 8, 9. Two justices may discharge apprentice.

43. No master shall put away, or transfer, any parish apprentice, or in *any* way discharge or dismiss him, without consent of the justices (as directed by the 32 *Geo.* 3. *c.* 15); and no settlement shall be gained by service of such apprentice, after such putting away or transfer, unless the service shall have been performed under the sanction of such consent. 56 *Geo.* 3. *c.* 139, *s.* 9. Master not to put away his apprentice without consent of justices.

Penalty for putting away apprentice without said consent.

44. A master putting away or transferring a parish apprentice to another, or who shall discharge or dismiss such apprentice from his service without such consent, shall forfeit a sum not exceeding 10*l.* for every apprentice so transferred. *Ibid. s.* 10.

Persons to whom parish apprentices are bound in hundreds, &c. to receive and provide for them.

45. Where power is given by particular acts of parliament for the relief of the poor in hundreds and incorporated districts, to bind poor children apprentices, the persons to whom they are appointed to be bound shall receive and provide for them according to the indentures executed by the directors or acting guardians, and shall execute counterparts of the indentures; and if any such person shall refuse or neglect to receive and provide for such apprentices, or to execute the counterpart of such indentures, he shall on conviction, on the oath of one of the directors or acting guardians, or other credible witness, before *two* justices, forfeit 10*l.* to the poor, to be levied by distress; but the party aggrieved may appeal to the justices at the next sessions, whose order shall be final. 20 *Geo.* 3. *c.* 36, *s.* 1.*

Appeal to the sessions.

Exemption from taking apprentices.

46. But no person shall be compelled to take any such apprentice unless he is *an inhabitant* and *occupier* of lands, tenements, or hereditaments, in the parish to which such child belongs. *Ibid. and see Rex* v. *the Directors and Guardians of the Poor within the Hundred of Tunstead and Happing in Norfolk,* 3 *Term Reports,* 523. 1 *Bott.* 622.

Poor children bound out by houses of industry, &c.

47. It having been doubted whether the provisions of the 20th *Geo.* 3. *c.* 36, extended to apprentices bound under the authority of the several acts since passed, by which houses of industry, or establish-

---

* Intituled "An act for obviating doubts, touching the binding and receiving of poor children apprentices, in pursuance of several acts of parliament made for the relief of the poor within particular incorporated hundreds or districts, and for the ascertaining the settlement of bastard children, born in the houses of industry within such hundreds or districts." (A. D. 1779).

ments for the poor, have been authorized to bind apprentices, the powers of that act are extended to poor children bound under the authority of any subsequent act. 42 *Geo.* 3. *c.* 46, *s.* 8.*

Registering Parish Apprentices.

Parish officers to keep a register book of all children put out.

48. The overseers of the poor are to keep a book for entering the name of every apprentice bound out by them, and the entry is to be signed by *two* justices if they *approve* and consent to the binding. If the overseer refuses or neglects to provide and keep such book, or to make such entry, or shall destroy any such book, or wilfully obliterate, deface, or alter any such entry, or make a false entry, or shall not produce the book before the justices, or shall not deliver the book to his or their successor within *fourteen* days after the appointment of his successor, or if the successor refuses or neglects to receive the book when offered by his predecessors, every person offending shall forfeit for every offence, on conviction before *two* justices, on the oath of a credible witness, or on the confession of the party, a sum not exceeding *5l.* to the use of the poor, to be recovered by distress and sale of the offender's goods, by warrant under the hands and seals of the convicting justices, returning the overplus (if any), after deducting the costs of making, keeping, and selling the dis-

Not keeping, &c. such book, penalty.

---

* Intituled "An act to require overseers and guardians of the poor to keep a register of the several children who shall be bound or assigned by them as apprentices, and to extend the provisions of an act passed in the 20th year of the reign of his present majesty, to the binding of apprentices by houses of industry, or establishments for the poor, which have been authorized so to do by subsequent acts." (Passed 7 May, 1802).

In default of distress, commitment.

tress; and if no sufficient distress is found, and the penalty is not forthwith paid, the justices may commit the offender to the common Gaol or House of Correction, there to remain without bail or mainprize for any time not exceeding *one calendar* month, unless the penalty shall be sooner paid. 42 *Geo.* 3. *c.* 46, *s.* 1, 2.

The book may be inspected, and copies taken.

49. The book may be inspected by *any* person, at all seasonable times, in the hands of the overseers, and copies of entries may be taken upon payment of *sixpence;* but justices of the peace are not to pay for such inspection, and such book is to be deemed sufficient evidence of the indentures if lost or destroyed. *Ibid. s.* 3.

Persons having power to bind out parish apprentices to be subject to the penalties for not complying with the act for registering such apprentices.

50. Where by any act of parliament the like powers are given to certain persons therein named for binding out parish apprentices as are given to overseers, they shall be subject to the like penalties for non-compliance, with the several provisions and directions contained in this act for registering parish apprentices. *Ibid. s.* 6.

Appeal to the first Quarter Sessions.

51. Persons aggrieved may appeal to the *first* Quarter Sessions within *four calendar* months next after the cause of appeal shall arise, giving to the party appealed against *ten* days notice of the appeal, and the matter thereof. The justices at sessions may hear and determine the same in a summary way, and give reasonable costs to either party. *Ibid. s.* 7.

Money given to bind out Parish Apprentices.

Money given for binding out parish apprentices to be continually employed.

52. Money given for the binding out parish apprentices to be continually employed as follows (*unless otherwise ordered by the donors*): *all corporations of cities, boroughs, and towns corporate,* the parson, vicar, constables, churchwardens, collectors, and the overseers, or the most part of them, shall have the nomination and placing of such apprentices, and the guiding and employment of such monies; and if they shall not employ the same accordingly, every person offending shall forfeit the sum of 3*l.* 6*s.* 8*d.* half to the

poor, and half to him that shall sue by action of debt, &c. *7 Jac. c. 3, s. 2.**

53. The master who shall receive the money shall be bound with *one* or *two* sureties on condition to repay it at the end of *seven* years, or within *three* months thereof; and if the apprentice shall die within the *seven* years, then within *one* year after his death; and if the master shall die within the *seven* years, then within *one* year after the death of the master. *Ibid. s. 3.* The master to repay the premium at the end of seven years.

54. The money shall be always put forth in *three* months after it shall come into the hands of the parties, and if there are not then fit persons to be bound apprentices within the places where the money is given to be employed, it shall be disposed of for binding some of the *poorest* children of *any* adjoining parish who are not *above* fifteen years of age when bound. *Ibid. s. 4, 5.* Money to be put forth within three months.

55. The said persons in places not corporate shall yearly, *within a month* after *Easter*, account before *four*, *three*, or *two* justices for the said monies, and within *ten* days after accounting, deliver up the monies and bonds remaining in their hands. *Ibid. s. 6.* Money to be accounted for, and balance to be paid over.

56. In case any of the trustees shall break their trust, or commit any offence for which no penalty is given by this act, *any* person may petition the Lord Chancellor, who may issue a commission to hear and determine the same, and may levy the money misemployed upon such defaulters, or otherwise upon such *able* inhabitants of the place as shall be thought fittest. Persons aggrieved may appeal to the Lord Chancellor. *Ibid. s. 7.* Trustees breaking their trust.

57. Two trustees, and also the head officers of corporations, and churchwardens and overseers of the Justices and head officers of corporations and parish officers may put out poor boys at ten years of age.

* Intituled "An act for the continuing and better maintenance of husbandry and other manual occupations, by the true employment of monies given, and to be given, for the binding out of apprentices." (A. D. 1608-9).

poor, with the consent of such justices or head officers, may put out any boy at the age of ten years or upwards who is *chargeable*, or whose *parents* are *chargeable*, or who *beg* for alms, to be an apprentice to the sea service until *twenty-one* years of age. 2 and 3 *Ann, c.* 6, *s.* 1.*

Parish apprentices may be bound over to the sea service.

58. Parish boys put out under the 43d of Eliz. may, with the consent of *two* justices dwelling *near* the parish where boys were bound, or with the consent of the chief officer in a corporation, may be turned over to the sea service. *Ibid. s.* 6.

Owners or masters of ships to have a certain number of apprentices.

59. Every master or owner of a ship from thirty to fifty tons burden is obliged to take *one* such apprentice, and *one more* for the next fifty tons, and *one more* for every hundred tons above the first hundred tons, on pain of forfeiting 10*l.* to the poor. *Ibid. s.* 8.

But no such apprentice to be under thirteen years of age.

60. No master shall be obliged to take any such apprentice under thirteen years of age, or who shall not be qualified, both as to health and strength of body, for that service. 4 *Ann. c.* 19.

The number of apprentices after 1st January, 1824, to be taken by masters of merchant ships.

61. After the 1st of January, 1824, the master of every merchantship exceeding fifty tons burthen shall have on board at clearing out from any part of (*that part of*†) the united kingdom called *England* one apprentice, in proportion to the number of tons, viz. for every ship exceeding eighty tons and under two hundred tons, *one* apprentice *at least;* two hundred tons and under four hundred tons, *two* apprentices *at least;* four hundred tons and under five hundred tons, *three* apprentices *at least;* five hundred tons and under seven hundred tons, *four* apprentices *at least;* seven hundred tons and upwards, *five* apprentices *at least,* under the age of *seventeen* years. 4 *Geo.* 4. *c.* 25, *s.* 2. ‡

---

* Intituled "An act for the increase of seamen, and better encouragement of navigation and security of the coal trade." (A. D. 1703-4).

† These words appear to have been omitted in the act.

‡ Intituled "An act for regulating the number

62. Every such apprentice shall be duly indented for at least *four* years, and the indenture shall be duly enrolled with the collector or comptroller at the custom-house from whence the ship shall first clear out *after* the execution of the indenture. 4 *Geo.* 4. *c.* 25, *s.* 2. (*See post, for penalty on the master for not enrolling the indentures*). Apprentices to be indented for four years at least.

63. The age of the apprentice is to be inserted in the indentures, truly taken from a copy of the entry (attested by the minister, without fee), in the register book (*where it can be had*); and if no entry can be found, *two* justices and such head officer shall inform themselves of the boy's age, and upon such information shall insert his name in the indentures. 2 and 3 *Ann, c.* 6, *s.* 1. The age of the apprentice must be inserted in the indentures.

64. The parish officers are to pay down to the master 50*s.* at the time of the binding, for clothing and bedding, which, together with other charges by this act appointed, is to be allowed in their accounts. *Ibid. s.* 2. Parish officers to pay 50s. for cloth-ing and bedding.

65. The parish officers are to send the indentures to the collector of the customs at the port where the master belongs, who is to enter them and endorse the registry thereof on the indenture, *without fee.* The collector neglecting or refusing to register the indentures and make such indorsement thereon, and making a false entry, shall forfeit 5*l.* to the poor of the parish whence the boy was bound. *Ibid. s.* 5. Parish officer to send the indentures to the collector of the port where the master belongs.

66. The parish officers, or their agents, are to convey the apprentice to the port to which the master belongs, and the charges are to be paid out of the general county rate, by the 53 *Geo.* 3. *c.* 113. *Ibid. s.* 10. And to convey the apprentice thither.

67. The counterpart of the indenture is to be executed by the master, in the presence of and attested by the collector of the port, and the constable or Counterpart of the indentures to be executed in the presence of the collector.

---

of apprentices to be taken on board British merchant vessels, and for preventing the desertion of seamen therefrom." (Passed 12th May, 1823).

other officer who carries the apprentice, and the collector is to send such counterpart to the parish officers. *Ibid. s.* 11.

Apprentice enrolled not liable to serve in the navy till twenty-one years of age.

68. Every apprentice so enrolled (*pl.* 65. *p.* 15.) is exempted from serving in his majesty's navy during his apprenticeship till he is twenty-one years of age. 4 *Geo.* 4. *c.* 25, *s.* 4.

Owner or master neglecting to enrol the indenture, or suffering the apprentice to leave, penalty 10*l*.

69. The owner or master neglecting to enrol the indenture (as in *pl.* 65. *p.* 15.), or suffering the apprentice to leave his service (except in case of *death, desertion, sickness,* or other unavoidable cause to be certified in the log book), shall forfeit 10*l*. half to be paid by the owner of the ship, and the other half by the master, to be applied as follows: *one third* to Greenwich Hospital, *one third* to the Seaman's Hospital at the port where the forfeiture shall arise, and the other *third* part to the informer, to be recovered on information on oath of one or more witnesses before one or more justices in any part of the united kingdom, who shall not reside more than *ten* miles from the abode of the party complained of; and in case of refusal or neglect to pay, the same to be levied by distress and sale of the offender's goods; and if no distress can be found, the offender may be committed to the common gaol of the city, town, or place within the jurisdiction of the justice, there to remain for *three* calendar months, *or* until the forfeiture is paid. *Ibid. s.* 4, 8. (*See the* 5 *Geo.* 4. *c.* 18).

Application of the penalty.

Apprentices to sea service may be employed on board any other vessels.

70. An apprentice to the sea service may be employed by the person to whom he is bound in any vessel of which such person may be the master or owner, and with the consent of the apprentice if above the age of *eighteen* years; if under that age, then with the consent of his parents or guardians, transfer the apprentice and the indentures by indorsement (without stamp) to any other person being master or owner of a registered vessel. *Ibid. s.* 5, 6.

Voluntary apprentices protected for three years.

71. Voluntary apprentices to the sea service shall not be impressed for *three* years from the date of the indentures, the indentures being registered, and certificates thereof given by the collector, on account of

which protection shall be given for the *first three* years, *without fee.* 2 and 3 *Ann, c.* 6, *s.* 15. (A. D. 1703-4.)

72. Every person not used to the sea service binding himself to that service shall be exempt from being impressed for *three* years, and the commissioners of the admiralty, on proof thereof, shall grant a protection, *without fee.* 13 *Geo.* 2. *c.* 17, *s.* 2 and 3. (A. D. 1730.) Persons not used to the sea service protected.

73. No person of the age of eighteen years shall have a protection who shall have been in the sea service before he bound himself apprentice. 4 *Ann, c.* 19, *s.* 17. (A. D. 1704-5.) Persons eighteen years of age not to be protected if they have been in the sea service before bound.

74. When a parish, or voluntary apprentice, shall be impressed, or voluntarily enter into his majesty's service, the owner or master, his executors, &c. shall be entitled to *able* seaman's wages for such apprentice, if qualified, notwithstanding his apprenticeship. 2 and 3 *Ann, c.* 6, *s.* 17. (A. D. 1703-4.) Parish or voluntary apprentice impressed.

75. Poor boys bound out apprentices to the sea service, or assigned over, are exempted from the payment of sixpence a month to Greenwich Hospital until they attain eighteen years of age. *Ibid. s.* 7. Poor boys apprenticed to the sea service exempt from the payment of sixpence a month.

76. Every master who is obliged to take such apprentice after his arrival in any port as aforesaid, and before he clears out, shall give an account in writing under his hands to the collector, containing the names and number of apprentices then remaining in his service, and the same to be inserted in the doquet, describing the apprentices by their names, ages, and dates of their indentures, *without fee. Ibid. s.* 9. 14. Master to give an account of the number of apprentices so bound to the collector at the port.

77. The collector shall keep a register containing the number and burden of all ships belonging to the port, with the names of the masters or owners, and the names *of all apprentices,* and from what parish and places they were sent, and transmit (*gratis*) three copies thereof, signed by him, to the Quarter Sessions, or to such towns corporate, parishes or places, when and as often as he shall be required; and every collector refusing or neglecting so to do shall forfeit 5*l.* to the poor of the parish from which the boy was bound, to be levied by distress and sale by warrant Collector to keep a register with the names, &c. of apprentices. And to transmit copies to the sessions when required.

of *two* justices of the county, city, borough, or town corporate. *Ibid. s.* 13, 18.

All complaints to be determined by two justices.

78. All complaints of ill usage by the master to the apprentice (whether a *parish* or voluntary apprentice) may be determined by *two* justices near the port, and mayors and other chief officers of cities or towns corporate, *in* or *near* adjoining the port at which the ship shall arrive, and make such order therein as they are enabled by law to do in other cases between masters and apprentices (*see post*). *Ibid. s.* 12.

Parish apprentices may be apprenticed on the death of master.

79. The master of a parish apprentice forced upon him dying during the term, his heirs, executors, or administrators, may assign the apprentice over to any other master who hath not his *number* of apprentices. 4 *Ann. c.* 19. *s.* 16.

Parish officers may bind poor boys apprentices to a chimney-sweeper.

80. The parish officers with the consent of two justices may bind or put out *any* boy of the age of eight (*nine years or upwards by the* 56 *Geo.* 3. *c.* 19. *s.* 7. *p.* 1. *pl.* 1.), who is chargeable, or where parents are chargeable to the parish, or who beg for alms, or with the consent of the parents of such boy, by indenture to be an apprentice to any person using the trade of a chimney-sweeper, until he shall attain the age of 16 years (*see* 28 *Geo.* 3. *c.* 48. 56 *Geo.* 3. *c.* 19. *s.* 7.)

The age of apprentices to be inserted in the indentures.

81. The age of the apprentice is to be inserted in the indenture (which indenture is liable only to such stamp duty as is charged for binding out other poor children), taken from a copy of the register (where it can be had), attested by the minister *without fee*, written on paper *without stamp*; and where such copy cannot be had, the *two* justices shall inform themselves of the age of the apprentice as fully as they can, and the age so inserted, as to the continuance of service, shall be taken to be his true age without further proof. *Ibid. s.* 2, 3.

Apprentices indentured under nine years of age, the indenture void.

82. All indentures, covenants, &c. for employing such apprentices or servants, under the age of eight years (*now nine years or upwards, by the* 56 *Geo.* 3. *c.* 129. *s.* 1.) shall be void; and any person *taking, employing, retaining,* or *keeping* any such boys in the

capacity of climbing boys, or chimney-sweepers, under that age, shall on conviction forfeit any sum not exceeding 10*l.* nor less than 5*l.* for every such apprentice or servant. *Ibid. s.* 4. (*See* 56 *Geo.* 3. *c.* 129. *s.* 1.)

Overseers of township have the power of binding apprentices.

83. Overseers of the poor of any *township* or *village* may execute all things directed by this act to be done by churchwardens and overseers of a *parish*. *Ibid. s.* 5.

Complaints to be settled by one justice of the peace.

84. All complaints and differences between masters and apprentices (in the business of chimney-sweepers) may be heard and determined by *one* justice, who may make orders therein as in other cases between masters and apprentices (*see pl.* 91. *p.* 20. *part* 1.). *Ibid.* 6.

Masters not to have more than six apprentices at the same time.

85. A master chimney-sweeper shall not retain, keep, or employ more than *six* apprentices at the same time, and shall cause his name and place of abode to be put on a brass plate affixed in the front of a leathern cap, to be provided by the master for each apprentice, to be worn by the apprentices when out on duty, on pain of forfeiting for every apprentice above such number, or without having such cap, not exceeding 10*l.* nor less than 5*l.* *Ibid. s.* 7.

Master misusing or ill-treating his apprentice.

86. A master misusing or ill-treating his apprentice, or the apprentice having just cause to complain of breach of any of the contracts in the indentures, the master on conviction shall forfeit not exceeding 10*l.* nor less than 5*l.* *Ibid. s.* 8.

Masters letting out apprentices or causing them to cry in the streets, but at certain times.

87. Masters letting out to hire or lending by the day or otherwise any such apprentice, for the purpose of sweeping chimneys, and causing him to call in the streets before *seven* in the morning, and after *twelve* at noon, between *Michaelmas* and *Lady day*, and before *five* in the morning, and after *twelve* at noon, between *Lady Day* and *Michaelmas*, the penalty as above (*pl.* 86). *Ibid. s.* 9.

Penalties and costs to be recovered before one justice, and levied by distress.

88. All penalties and forfeitures imposed by this act, and all costs and charges to be allowed and ordered, may be recovered on the conviction of the offender before *one* justice, by confession, or on the oath of *one* witness—to be levied by distress, and to be

applied half to the informer and half to the overseers of the poor of the parish where the master inhabits. In case sufficient distress cannot be levied, and the penalties and costs are not forthwith paid, the justice may commit the offender to the gaol or house of correction where the offence is committed, or order made, for any time not exceeding *three* months *, unless the penalties and costs are sooner paid. *Ibid.* s. 10, 11.

Distress warrant not to issue until six days after conviction, &c.

89. But no warrant of distress to be issued until *six* days after conviction, order for payment made and served on the offender. *Ibid.* s. 12.

Appeal to the next quarter sessions.

90. Persons aggrieved may appeal to the *next* general or quarter sessions—first entering into a recognizance, with sufficient sureties, before the convicting justice conditioned to prosecute the appeal and abide the order of the court of sessions, and also on giving notice in writing to the justice of the intention to appeal, and of the matter thereof, within *six* days after the cause of complaint shall have arisen. *Ibid.* s. 16.

Differences between Masters and Apprentices (generally).

Differences between masters and apprentices may be settled by one justice.

91. All differences between masters and apprentices are to be heard by *one* † justice of the county, or the mayor or other head officer of a city, town corporate, market town, or other place where the master dwells, who in his discretion shall take such order and direction between the master and his apprentice as the equity of the case shall require; and if for want of conformity in the master, the justice,

---

* *See note, p. 3, ante.*

† The complaint may be made immediately to the sessions, they having an original jurisdiction, without any previous application to a *single* justice out of sessions. *Rex v. Johnson*, 1 *Salkeld's Reports*, 68. *Rex v. Gill*, 1 *Strange's Reports*, 143. *Rex v. Davies*, 2 *Strange's Reports*, 704.

or other head officer, &c. cannot compound the matter between them, then the justice, or the mayor, or head officer, shall take bond of the master to appear at the next sessions to be holden in the said county, city, &c., before the justices of the county, or the mayor, or other head officer of the city, &c., who upon hearing the matter may either discharge *, or *cause such due correction* † *and punishment to be administered to the apprentice* as they think fit. 5 *Eliz. c.* 4. ‡ *s.* 35.

92. On complaint by any *parish* apprentice, or any *other* apprentice, upon whose binding no more than 5*l.* (*now* 25*l. by* 4 *Geo.* 4, *c.* 29. *s.* 1.) of want of necessary provision, cruelty, or other ill treatment by the master, any two justices of the peace (*of the county, riding, city, &c. where the master resides*) may summon the master and examine into the complaint, and on proof on oath to their satisfaction (whether the master is present or not, and on proof of service of

Complaint of apprentice of want of necessary provision, cruelty, &c.

* Upon discharging an apprentice, the justices may order the whole or part of the premium paid with the apprentice to be refunded. (*See pl.* 101. *p.* 24). 4 *Bacon's Abridgement, title Master and Servant, p.* 566 *and* 567. *Rex v. Auries,* 4 *Bacon's Abridgement,* 567. 2 *Barnardiston's Reports,* 244. 296. 1 *Bott.* 574; *and see* 1 *Saunders' Reports, edit.* 1809, *p.* 313 (*a*) *n.* 3.

† Correction means *corporeal* punishment by *whipping, and is a necessary part of the judgment.* A commitment to the house of correction, there to be corrected, imports correction by *whipping. Rex v. Horseason,* 14 *East's Reports,* 605. This clause enlarges the power of magistrates, rather than restrains it, over apprentices, beyond the power given them over the masters, and the justices may inflict corporeal punishment, or discharge an apprentice, at their discretion. *Hawkesworth v. Hillary,* 1 *Saunders' Reports,* 313, 314.

‡ "An Act containing divers orders for artificers, labourers, servants of husbandry, and apprentices." (A. D. 1561.)

the summons) may discharge the apprentice by warrant under their hands and seals, *without fee.* 20 *Geo.* 2. *c.* 19*. *s.* 3. (*See also* 4 *Geo.* 4. *c.* 29 †. *s.* 1.

Where parish apprentice is discharged, the master to give up his clothes and pay 10*l.* to the parish officers, &c.

93. Where a parish apprentice shall be so discharged, the justices may order the master or mistress to deliver up to the apprentice his clothes, and also to pay to the parish officers of the parish to which the apprentice belongs any sum not exceeding 10*l.*, to be applied for again binding the discharged apprentice, or *otherwise* for his benefit; and also to pay not exceeding 5*l.* in case the master refuses to give up the clothes; and if the master refuses to pay either of the sums so ordered, the justices may levy the same by distress, with reasonable expenses. 32 *Geo.* 3. *c.* 57 ‡. *s.* 11.

Parish officers may be compelled to prosecute the master by indictment for ill-treating apprentice.

How the costs, &c. to be paid.

94. The said justices may, if they think fit, compel the parish officers, some or one of them, to enter into a recognizance to prosecute the master by indictment for such ill treatment of any such discharged apprentice; and they may order that the costs and expenses of the prosecution be paid, half thereof out of the *poor-rates* of the parish to which the apprentice shall belong, and the other half out of the *county rate* in which the parish shall lie. *Ibid.*

Master may appeal.

95. The master or mistress may appeal against the order for such discharge, and payment of such sum of money in lieu of a subsequent binding, to the *next* general quarter sessions. *Ibid. s.* 12.

Warrant of distress not to issue until after the next general sessions.

96. The warrant of distress for enforcing the payment of either of the sums last mentioned (*pl.* 93), is not to issue until after the *next* general quarter

---

* Intituled "An act for the better adjusting and more easy recovery of the wages of certain servants, and for the better regulation of such servants, and of certain apprentices."

† Intituled "An act to increase the power of magistrates in cases of apprentices and servants:" passed 23d May, 1823.

‡ Intituled "An act for the further regulation of parish apprentices."

sessions, held next after the order shall be made. *Ibid.*

97. *Two* justices, at any special or petty sessions, on complaint on oath by or on the part of any *parish* apprentice, or *any* other apprentice upon whose binding no more than 10*l.* was paid (25*l. by the* 4 *Geo.* 4. *c.* 29. *s.* 1.) of ill usage by his master (*the master or mistress having been summoned to appear and answer the complaint*), may impose on conviction any reasonable fine not exceeding 40*s.* upon the master, as a punishment for ill usage; which, if not paid, the same may be levied by distress and sale of the goods of the offender; and the overplus, if any, after deducting the fine and costs of the distress and sale, to be applied, at the discretion of the justices, either to the poor, or for the use of the apprentice, as a compensation for the ill usage. 33 *Geo.* 3. *c.* 55. 4 *Geo.* 4. *c.* 29. *s.* 1. Justices may impose a fine on the master for ill-usage of apprentice.

98. Any persons aggrieved by the imposition of such fine, or by any order or warrant of distress for levying the same, or by the judgment of the justices, or by any act done in the execution of the warrant of distress, may appeal to the *next* general or quarter sessions for the county, &c. where the appellant resides, giving ten days' notice at the least, and for warrant of such distress the offender may be committed to the house of correction for any time not exceeding *ten* days. *Ibid.* Master may appeal to the sessions.

99. No person acting under the warrant of distress shall be deemed a trespasser *from the beginning*, on account of any irregularity in the warrant, or the proceedings thereon. *Ibid.* 12. Persons acting under the warrant of distress not to be trespassers.

100. *Two* justices, on complaint on oath by the master * against any *parish* apprentice, or *any other* apprentice, on whose binding not more than 5*l.* was paid (25*l. by* 4 *Geo.* 4. *c.* 29. *s.* 1; *and see pl.* 92. Apprentices misbehaving, &c. may be punished.

---

* The complaint must be made by the master, but it may be verified on the oath of any other person who knows the fact complained of. *Finley v. Towle. E.* 50 *Geo.* 3. 12 *East's Reports*, 248.

p. 21.) concerning any misdemeanour, miscarriage, or *ill behaviour* in his service, to hear, examine, and determine the same, and to punish* the offender by commitment to the house of correction, there to remain, and be corrected, and kept to hard labour for a reasonable time, not exceeding *one calendar* month, or otherwise by discharging the apprentice, as before mentioned. (*See pl.* 91, *p.* 20, *as to discharging an apprentice, and pl.* 102 *infra.*) 20 *Geo.* 2. *c.* 19. *s.* 4. (*See* 4 *Geo.* 4. *c.* 29. *s.* 1.)

Where the justices direct an apprentice to be discharged, they may order the master to refund *all* or part of the premium.

101. Any *two* justices of the peace, in any case where they shall direct an apprentice to be discharged, may take into consideration the circumstances under which the apprentice shall be discharged, and make an order upon the master to refund† *all*, or *any* part of the premium paid on the binding, as they shall see fit, and if the master neglects to pay the sum ordered to the person directed in the order to receive the same, such justices in petty sessions may levy the same upon the goods and chattels of the master by warrant under their hands and seals, with the costs of the distress, rendering the overplus to the master on demand; and in case there shall not be sufficient goods whereon to levy the same, then the said justices may commit the offender to the house of correction for any time not exceeding *two* months, unless the money ordered to be refunded, with *all* costs, is sooner paid. 4 *Geo.* 4. *c.* 29.‡ *s.* 2. *See also* 5 *Geo.* 4. *c.* 18.

Apprentices discharged may be committed to the house of correction.

102. Where any apprentice shall be discharged by *two* justices, under the above-mentioned act of the 20 *Geo.* 2. *c.* 19. (*pl.* 101 *supra, and pl.* 91. *p.* 20.) or otherwise from his apprenticeship, on account of

---

* This provision is not repealed by the 6 Geo. 3. c. 25 (pl. 107, p. 25), empowering justices to oblige an apprentice to serve the time of absence after the expiration of his term. *Gray v. Cookson and Clayton*, 16 *East*, 12.

† See p. 21, note *.

‡ See title of the act, note †, p. 22.

ill behaviour, the justices may, if they think proper, punish the offender by commitment to the house of correction, *there to be corrected** and kept to hard labour for a reasonable time not exceeding *three* calendar months, as the justices shall think fit. 32 *Geo.* 3. *c.* 57. *s.* 13.

Appeal against determination, &c. of justices.

103. Persons aggrieved by any determination, order, or warrant of the justices (*except any order of commitment* †), may appeal to the justices at the next sessions, who may award costs to either party not exceeding 10*l.* to be levied by distress and sale. 20 *Geo.* 2. *c.* 19. *s.* 5.

No certiorari.

104. No certiorari allowed. *Ibid. s.* 6.

Appeal where no appeal is specially given.

105. And persons aggrieved by any thing done or omitted by any churchwarden or overseer, or justice, or any other person, by virtue of this act (*besides such matters or things for which an appeal is before specially given*) may appeal to the next sessions, and the court may award reasonable costs to either party. 32 *Geo.* 3. *c.* 57. *s.* 14.

Apprentice fleeing into another county.

106. An apprentice fleeing into another county, the justices, mayors, or the head officers (*being justices*), may cause him to be apprehended and put into prison until he finds sufficient surety well and honestly to serve his master. 5 *Eliz. c.* 4. *s.* 47.

Apprentice absenting himself.

Apprentice absenting himself from his service.

107. An apprentice absenting himself from his master's service before his term is expired shall, at any time thereafter, wherever he shall be found (*if within seven years after the expiration of his term*), be compelled to serve his master for so long a time as he shall have absented himself from his service, unless he makes satisfaction to his master for the loss sustained by his absence, and that as often as the apprentice shall, without leave, absent himself

---

* Corrected means *whipped.* *See note* †, *p.* 21.

† There is no appeal against a conviction and order of commitment, which, under this act, are one and the same thing. *Rex v. Justices of Staffordshire,* 12 *East,* 572.

before the term of the contract is fulfilled. 6 *Geo.* 3. *c.* 25, *s.* 1. 3*.

If the apprentice refuses to serve or give satisfaction.

108. If the apprentice refuses to serve as above-mentioned, or to make satisfaction to his master, *any* justice of the county where the master resides, on complaint on oath of the master, may issue a warrant for apprehending the apprentice; and the justice, upon hearing the complaint, may determine what satisfaction shall be made by the apprentice to his master; and if the apprentice does not give security to make satisfaction according to such determination, the justice may commit him to the house of correction for any time not exceeding *three* months (*see note, p.* 24). *Ibid.*

Commitment for three months.

Except the stannaries & London.

109. This act does not extend to the stannaries in *Devon* or *Cornwall*, or to the city of *London*, touching apprentices, nor to any apprentice whose master shall have received the sum of 10*l.* with him. *Ibid. s.* 6.

Complaint may be made by master or his steward, &c. against an apprentice of misconduct.

110. Not only the master or mistress, but his or her steward, manager, or agent, may make complaint on oath against *any* apprentice within the meaning of the said acts (20 *Geo.* 2. *c.* 19, 6 *Geo.* 3. *c.* 23, 4 *Geo.* 4, *c.* 29), to *any* justice of the county where the apprentice is *employed*, of any *misdemeanor, misconduct*, or *ill behaviour*; or if the apprentice shall have absconded, *any* justice of the peace of the county where the apprentice shall be *found*, or shall have been employed, and on complaint thereof on oath by the master or mistress, steward, manager, or agent, may issue a warrant for apprehending the apprentice, and may hear and determine the complaint, and punish the offender, by abating the whole or any part of his wages, or otherwise by commitment to the house of correction, there to remain and be kept to hard labour for a reasonable time, not exceeding three months. 4 *Geo.* 4. *c.* 34†.

---

* Intituled "An act for better regulating apprentices and persons working under contract."

† Intituled "An act to enlarge the powers of justices in determining complaints between masters

111. All complaints, differences, and disputes, between masters and mistresses and their apprentices, within meaning of the said acts, or any of them, concerning wages due to apprentices, may be heard and determined by *one* or more justices of the county where the apprentice is employed, who may examine the master, apprentice, or witnesses, on oath, and summon the master to appear, and make such order for the payment of so much wages to the apprentice, according to the terms of the indentures, as shall appear under all circumstances of the case to be *justly due, if the sum in question does not exceed* 10*l.*; the amount of such wages to be paid within such period as the justices think proper to order the same to be paid; and in case of refusal, or non-payment thereof, the justice may issue a warrant to levy the same by distress and sale of the goods of the master, rendering the overplus to the owner after payment of the charges of the distress and sale. *Ibid. s.* 2.

Disputes between masters and apprentices about wages to be settled by justices.

112. Where masters, mistresses, or employers, reside at considerable distances from the places where their business is carried on, or are occasionally absent for long periods, either beyond the seas or at considerable distances from the place of business, and during such residence or absences intrust their business to the management of stewards, agents, bailiffs, foremen, or managers: in either of such cases any justice of the peace of the county, or place where any servants in husbandry, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, *labourers, or other persons or apprentices,* shall be employed, upon complaint of any such servant, &c. as to the non-payment of wages, may summon the steward, &c. to appear, and he may hear and determine the complaint, and make *order* for the payment by the steward, &c. to the servant, &c. of so much wages as to the justice shall appear to be

Servants in husbandry, artificers, &c. may recover wages in the absence of their masters, &c.

---

and servants, and between masters, apprentices, artificers, and others."

justly due, *if the sum in question does not exceed* 10*l.*; and in case of refusal or non-payment by such steward, &c. for the space of twenty-one days from the *date* of the order, the said justice may issue a warrant to levy the same by distress and sale of the goods of such master, mistress, or employer, rendering the overplus to the owner, or to the steward, &c. for the use of the master, &c. after payment of the charges of the distress and sale. *Ibid. s.* 4. (*see* 5 *Geo.* 4. *c.* 19*.)

The justice may order payment of wages within such time as he shall think fit.

113. And such justice may order payment of wages within such time as he may think fit, and in case of refusal, or a non-payment thereof, may levy the same by distress and sale, in manner directed by the said first mentioned act (20 *Geo.* 2. *c.* 19); and any such order or determination made under this act shall be final and conclusive. *Ibid. s.* 5.

Jurisdiction of London.

114. Not to extend to lessen the jurisdiction of the city of London. *Ibid. s.* 6.

The Master dying.

Master dying during the term of the apprenticeship, the apprentice to serve the widow, &c. for three months, &c.

115. In the event of the master of any *parish* apprentice dying during the term of apprenticeship, the agreement for service on the part of the apprentice *is at an end,* but the covenant for maintenance on the part of the master (where no more than 5*l.* was paid on the binding) *continues,* as far as his assets will extend, until *three* calendar months after the death of the master or mistress; and during such *three* months the apprentice shall continue to live with and serve the executors and administrators as an apprentice, or such other person as they shall appoint. 32 *Geo.* 3. *c.* 57 †.

---

* Intituled "An act for the more effectual recovery of penalties before justices and magistrates on conviction of offenders, and for facilitating the execution of warrants by constables."

† Intituled "An act for the further regulation of parish apprentices."

Justices may order apprentice to serve the widow, &c. of master dying, if application is made within three months.

116. Within such *three* calendar months after the death of the master or mistress, &c. *two* justices, on the application of the widow or husband, son, daughter, brother or sister, or executor, or administrator of such deceased person, may order and direct, by indorsement, or by any other instrument in writing, that the apprentice shall serve any one of *such* persons making such application as an apprentice (*such person having lived with and having been part of the family of the master or mistress at the time of his or her death*), as they think fit, during the residue of the original term. *Ibid. s.* 2, 3.

If no application is made, the apprenticeship to cease.

117. But if no such application is made within *three* calendar months, or if the justices shall not think fit that the apprenticeship should be continued, then the apprenticeship shall cease, and the indenture and covenants shall be at an end. *Ibid. s.* 4.

Not to extend to parish apprentices.

118. Not to extend to any *parish* apprentice, but to such only as shall be living with and make part of the family, or be in the actual employment of the original master or mistress, or of any subsequent master or mistress appointed by this act at the time of his or her death. *Ibid. s.* 5.

Master refusing to maintain apprentice during the three months.

119. If the original master or mistress shall during the term of the apprenticeship, or the executors or administrators of that master dying, or any of them having assets, shall, during such *three* calendar months, refuse or neglect to maintain and provide for the apprentice agreeably to the covenant, *two* justices, on complaint by the apprentice, or of the churchwardens and overseers of the poor of the place, may levy by distress on the personal estate and effects or assets of the master, such sum as shall be necessary for the maintenance and clothing of the apprentice, and as shall also be necessary to reimburse the parish officers what they shall have reasonably expended for that purpose. *Ibid. s.* 6.

Apprentice to a bankrupt is discharged from the indenture.

120. An apprentice to a bankrupt at the time of the issuing of the commission is discharged of the indenture of apprenticeship by the issuing of the commission; and where any sum of money has been *bonâ fide* paid by or on the behalf of the apprentice,

the commissioners may order *any reasonable sum* to be paid *to* or *for the use* of the apprentice. 6 *Geo* 4. *c.* 16. *s.* 49*.

As to settlement by apprenticeship, see title— *Settlement by Apprenticeship.*

As to apprenticeship under certificates, see title— *Settlement by Certificates.*

CHURCHWARDENS.

The Origin of the Office of Churchwarden.

Churchwardens anciently called church reeves.

Churchwardens were anciently called *church reeves,* or guardians of the church; they were instituted to protect the edifice of the church, to superintend the ceremonies of public worship, to promote the observance of religious duties, to form and execute parochial regulations, and to become, as occasion may require, *the legal representatives of the whole parish.*

What the office of churchwarden was originally.

Originally the office of churchwarden was confined to such matters only *as concerned the church,* considered *materially* as an edifice, building, or place of public worship; and the duty of suppressing profaneness and immorality was intrusted to *two* persons chosen by the parishioners as assistants to the churchwardens, who, from their power of *inquiring* into offences detrimental to the interests of religion, and of *presenting* the offenders to the next provincial council, or *episcopal synod,* were called *questmen,* or *synods-men,* which last appellation has been converted into the name of *sides-men.* But great part of the duty of these *sides-men* is now devolved upon the churchwardens, the sphere of whose duty has, since the establishment of the *overseers of the poor,* been considerably enlarged, and is now also

* Intituled "An act to amend the laws relating to bankrupts."

diverted into various channels by many modern acts of parliament. *Paroch. Antiq.* 649.

It is not intended to enlarge upon this subject beyond what will give the reader sufficient information as to the antiquity of the office of churchwardens. The following pages will, in a compendious, though explanatory manner, give an account of the duties of the office of churchwardens as it is now established.

Persons exempt from serving the Office.

Exemptions from the office.

1. Peers of this realm, clergymen, all parliament men having privilege, *Gibs.* 215. Counsellors and attornies, 2 *Roll. Abr.* 272. Apothecaries, &c. 7 *W.* 3. *c.* 4. Freemen of the corporations of surgeons in *London*, 13 *Geo.* 2. *c.* 15. Dissenting teachers, or preachers in holy orders, or pretended holy orders, being duly qualified, 1 *W.* 3. *sess.* 1, *c.* 18. 52 *Geo.* 3. *c.* 155, *s.* 9. Other dissenters scrupling to take upon them the office may execute it by deputy, to be approved of by the parishioners in vestry, 1 *W. sess.* 1, *c.* 13. Persons who have prosecuted felons to conviction, 10 *and* 11 *W.* 3, *c.* 23, *s.* 2. (*But certificates granted under this act are not now transferable,* 58 *Geo.* 3. *c.* 7, *s.* 2.) Roman Catholic ministers, 31 *Geo.* 3. *c.* 32, *s.* 8 Sergeants, corporals, and drummers of the militia, nor privates, from inrolment till discharge, 42 *Geo.* 3. *c.* 90, *s.* 174. Persons who are not personally resident in the parish, but are partners in a house of trade within the parish, are not exempted. *Stevenson* v. *Langston*, 1 *Hag. Rep.* 379. Aliens, Papists, Jews, and persons convicted of felony, are disqualified.

Apothecaries.

Surgeons.

Dissenting teachers, &c.

Other dissenters by deputy.

Prosecution of felons to conviction.

Roman Catholic ministers.

Persons serving in the militia.

Partners not resident in the parish.

Aliens, &c.

Of the electing and swearing in of Churchwardens.

As to choosing them.

2. Churchwardens were formerly chosen annually in Easter week, or within one month after Easter, but now they are to be chosen together with the overseers on the 25th of March, or within *fourteen* days after. 54 *Geo.* 3. *c.* 91.

How chosen.

3. They are to be chosen by the joint consent of the minister and parishioners, if they can agree; but if they cannot agree, the minister shall choose *one* and the parishioners *another*. 89*th Canon of* 1603.

If there is a custom.

4. If there is a custom for the parishioners to choose both, such custom shall continue. *Gibs.* 242.

After chosen they are to be sworn.

5. After they are chosen they are to be sworn in by the ecclesiastical judge, and the oath is as follows:

The oath of office.

The Oath of office.

"*You shall swear truly and faithfully to execute the office of churchwarden within your parish, and according to the best of your skill and knowledge present such things and persons as to your knowledge are presentable by the laws ecclesiastical of this realm, so help you God and the contents of this book.*" *Gibs.* 243.

Churchwardens a corporate body.

6. After the churchwardens have been sworn they are a corporate body, so far as to sue for the *goods* of the church, and to bring actions for tresspass for them, and also to purchase goods for the *use* of the parish; but they cannot purchase *lands*, or take them by grant (except in *London*, by custom). *Ibid.* 241.

Continuance in office.

7. They are to continue in office until the new churchwardens are sworn. *Can.* 118.

Their Duty as to Church Rates.

Churchwardens cannot make a rate of themselves.

8. The churchwardens cannot make a church rate of themselves, *exclusively* of the parishioners, their duty being *only* to summon the parishioners to meet in vestry for that purpose. *Wats.* 389.

How church rate is to be made.

9. When the churchwardens and parishioners are assembled in vestry, they are to consider what money will be necessary for the repairs of the church, and when they have agreed they may make an equal rate. *Dagge*, 171.

Mandamus will not lay to compel them to make a church rate, &c.

10. A mandamus will not lay to compel the churchwardens, &c. to make a church rate, which is properly of ecclesiastical cognizance, *but it will lay to cause them to assemble in order to inquire whether it be fit that a rate should be made. Rex v. Church-*

wardens and Overseers of St. John and St. Margaret, Westminster, 4 *M. and S.* 250. *Rex v. St. Peter's, Thetford*, 5 *T. R.* 364.

A rate cannot be made to reimburse churchwardens.

11. A court of equity will not decree a church rate to be made to *reimburse* a former churchwarden monies laid out *while* in office, *though in pursuance of an order of vestry. Lanchester v. Thompson and others*, 5 *Modd.* 64.

Two rates; one for the fabric, the other for the ornaments.

12. Two rates should be made, the one for the repairs of the *fabric* of the church, which is *real*, *charging the land* and not the person; the other, for the *ornaments*, which is *personal, charging the goods* and not the land. *Gibs.* 220.

How the occupier is chargeable

13. The rate for the repairs of the church is to be laid on every *occupier* of lands in the parish, although the occupier lives in another parish; but he is *not to be charged* towards the ornaments of the church, such as for *bells, repair of seats, bread and wine, clerk's wages, visitation charges, &c.* for such lands; the personal estates of the inhabitants are chargeable with *every thing that does not relate to the fabric of the church, or the repairs of the fences of the churchyard, or such other things as concern the freehold.*

Who is the occupier.

One church rate.

14. But the practice generally is now to make *one* church rate do for *all* purposes, for ease and convenience; and this seems to be agreeable to the opinions of both the ecclesiastical and temporal judges. *Shaw's Parish Law*, 92.

To be made by a pound rate.

15. The church rate should be made by a *pound rate*, and not according to the *quantity of land. Wood's Inst. b.* 1, *c.* 7.

Tenant to be rated.

16. Where lands are in farm, *the tenant* must be rated and pay, and *not the lessor. Gibs.* 221.

Impropriator to contribute.

17. An impropriator, though bound to repair the chancel, is also bound to contribute to the repairs of the church, if he hath lands in the parish which are not part of the parsonage. *Ib.* 221—223.

Quaker refusing to pay church rate.

18. A quaker refusing to pay church rate may be sued in the ecclesiastical court as any other parishioner, or he may be proceeded against before two justices of the peace in the same manner as for tithes, by the 53*d Geo.* 3. *c.* 127, *s.* 6.

Remedy on refusing to pay the rate.

19. If any one duly rated to a church or chapel, *the validity of which rate is not* questioned in the ecclesiastical court, shall refuse or neglect to pay upon the complaint of any churchwarden or churchwardens, chapelwarden or chapelwardens, who ought to collect it, to a justice of the peace of the county, riding, city, liberty, or town corporate, in which the church or chapel is situated, he may grant his warrant to convene the persons so refusing or neglecting to pay, before two justices of the peace, who are to examine upon oath into the merits of the complaint, and by order under their hands and seals to direct the payment of the rate, where the sum does not exceed 10*l.* above the costs and charges, to be ascertained by them; and if the party refuse or neglect to pay according to the order, then it is to be levied by warrant of distress under the hand and seal of one of such justices, together with the costs, on the goods of the offender, his executors, or administrators, returning the overplus after deducting the necessary charges of distraining; and if the party finds himself aggrieved by the judgment of the two justices, he may appeal to the *next general quarter sessions*, and the justices there assembled shall finally hear and determine the matter. If the judgment of the justices shall be affirmed, the same shall be decreed by order of sessions, with costs, against the appellant, to be levied by distress and sale of the goods of the appellant. 53 *Geo.* 3. *c.* 127, *s.* 7.

Not to alter the jurisdiction of the ecclesiastical courts, &c.

20. But not to alter or interfere with the jurisdiction of the ecclesiastical courts to hear and determine causes touching the validity of the rate, or from proceeding to enforce the payment of it where the same shall *exceed* 10*l.* 53 *Geo.* 3. *c.* 127, *s.* 7.

If the liability to pay church rate is disputed.

21. If the validity of the rate, or the liability to pay it, is disputed, and the party disputing it gives notice to the justices; they are to forbear giving judgment thereon; and the party demanding the rate may then proceed to recover it according to due course of law as heretofore. 53 *Geo.* 3. *c.* 12, *s.* 7.

22. The goods and chattels of any person ne-

glecting or refusing to pay any church cess for the space of *seven days* after the same shall have been demanded, may be distrained not *only* within the district, parish, &c. where the church, &c. is situated, but also *within* any other district, parish, &c. in the same county, riding, division, or jurisdiction; and if sufficient distress cannot be found, then, upon oath made thereof, before any one or more justices of the peace for any other county, riding, &c. in which any of the goods or chattels of such person shall be found, they may be distrained and sold in the same manner as if they had been found within the district, parish, &c. for which the rate was made. *54 Geo. 3. c. 170, s. 12.*

If the validity of the church rate is disputed.

23. If a person summoned before two justices for the non-payment of a church rate, under the *53d Geo. 3. c. 127, s. 7* (*pl. 19. p. 34*), gives them notice that he disputes *the validity of the rate, or his liability* to pay the same, though no proceeding is commenced in the ecclesiastical court; and if such person informs the justices that he will bring an action against any one who ventured to levy the rate, as he thought he had no right to pay, because he had *no claim to or seat in the church or chapel,* it is a sufficient notice to the justices of the party disputing the rate, and they are to forbear proceeding to judgment. *Rex v. Milnrow, 56 Geo. 3. 5 Maule and Selwyn's Reports, 248.*

For what purpose a church rate cannot be made.

24. A church rate cannot be made to reimburse the churchwardens monies that have been expended, *or which they might hereafter expend,* on the parish church, for they ought not, nor are they bound, to lay out money until they have collected it in hand. *Rex v. Chapelwardens of Haworth in the West Riding of Yorkshire, 12 East, 556.*

How church rate is to be raised.

25. The regular way is for the churchwardens to raise the money beforehand, by a rate made in the regular form for the repairs of the church, in order that the money may be paid by *the existing inhabitants* at the time, on whom the burden ought properly to fall. *Ibid.*

Vestry Clerk's appointment.

26. The vestry may appoint a clerk for the better management of the duty that devolves to them, which is an office of merely a private nature, and depends altogether on the will of the inhabitants, who may elect a different clerk at each vestry; *nor is any salary annexed to the situation*: if the fees are to be paid out of the poor rates, there is an end of all prescriptive right to it. As to any agreement made by the parishioners, that such should be an *annual office*, it cannot be obligatory longer than the parties choose to fulfil it, *for it may be* revoked at the next vestry. It is not therefore a fixed permanent office, for which a *mandamus* will lie. *Rex v. Churchwardens of Croydon*, 5 *Term Reports*, 714. (See title *Vestry Clerk, post.*)

As to the Repairing of the Church and Seats therein.

The freehold of the church, with repairs, &c.

27. The soil and freehold of the church is of common right in the parish; the whole of the body of the church and the repairs common to the parishioners; and the disposition of the seats is with the ordinary; but the churchwardens may, with the consent of the ordinary, place the parishioners in the seats, and appoint gallery keepers, &c. *Gibs.* 221.

As to seats in the church.

Parishioners compelled to repair the body of the church.

28. The parishioners may be compelled by the spiritual court to repair the body of the church, and they may be excommunicated until it is repaired, *except those who are willing to contribute. Read's Church Service.*

If out of repair, &c. the church may be pulled down and rebuilt, or repaired, as it may require.

29. When the church is so much out of repair that it is necessary that it should be pulled down, or if small, that it requires to be enlarged, the greater part of the parishioners may make a rate for new building or enlarging it, as occasion requires. *This was declared in the 29th Car. 2, by all the three courts successively, although the cause was laboured by a great number of* Quakers, who opposed the rate. *Gibs.* 221.

As to the repairs of the chancel.

30. The spiritual rector (*the parson*) as well as the lay impropriator, is bound by common right *to repair the chancel*, and he is thereupon entitled to a

seat therein, unless another has it by prescription; *but he cannot dispose of the seats in the chancel,* which is the right of the bishop. *Ibid.* 223, 224.

31. No person can claim a seat in a church by *prescription, as belonging to land,* but he may as belonging to a house, in respect to the occupancy. 1 *Wood's Inst. b.* 1. c. 7. Church seats by prescription.

32. No one can claim a seat by length of possession only, without claiming it as *appertenant* to a *messuage.* 1 *Term Reports,* 428. by possession.

33. A seat in a church cannot be granted to a person and his heirs *absolutely;* for the seat does not belong to the person, but to the *inhabitant.* *Gibs.* 221. *Popham's Reports,* 140. *T. Raymond's Reports,* 246. Cannot be granted to a person and his heirs absolutely.

34. But if *a faculty* is annexed to a *messuage,* it may be transferred to another person. 1 *Term Reports,* 431. A faculty may be transferred.

OVERSEERS.

For what Places Overseers may be appointed.

1. The churchwardens of every parish, and four, three, or two substantial householders, according to the size of the parish, were, by the 43 *Eliz. c.* 2, *s.* 1. to be nominated yearly in Easter week, or within one month after Easter, but now they are to be nominated on the *twenty-fifth of March, or within fourteen days after,* and *appointed* under the hands and seals of *two justices* of the peace of the *same* county, dwelling *in* or *near* the parish, to be overseers of the poor. (And see the 43 *Eliz. c.* 2, *s.* 1. 54 *Geo.* 3. *c.* 91. 59 *Geo.* 3. *c.* 12, *s.* 6. *pl.* 52, *p.* 44. *post.*) Where overseers are to be nominated, and in what manner.

2. By the 43 *Eliz. c.* 2. a *parish* was the only district entitled to the separate maintenance of its poor, but now *townships* and *villages,* whether parochial or extraparochial, are brought within the same system; but by the construction put upon the 13 and 14 *Car.* 2. by which, after reciting that the inhabitants of Townships and villages are entitled to have overseers of the poor.

several counties in *England* and *Wales*, by reason of the largeness of the parishes within them, *have* not nor cannot reap the benefit of the 43 *Eliz.* it is enacted, that the *poor*, *needy*, *impotent*, and *lame* within every *township* or *village* within the said several counties, should be provided for and set to work within the several respective township or village where such poor persons shall inhabit or were lawfully settled; and that two or more overseers shall be appointed for the townships or villages within the said counties. 13 *and* 14 *Car.* 2. *c.* 12, *s.* 21. (See *Clifdon v. Churcham, post.*)

Mayors, &c. have the same authority as justices of the peace.

3. *Mayors*, *bailiffs*, or other head officers of *towns corporate*, (being justices of the peace), have the same authority within their jurisdictions (*as well out of sessions as at their sessions*) as justices of the peace; and also the aldermen of the city of London within their respective wards. 43 *Eliz. c.* 2, *s.* 8.

If a parish extends into two counties, or into two liberties.

4. If a parish extends into more counties than one, and a part is within the liberties of a corporate place and part without, the justices of the county, and head officers of such corporate place, shall intermeddle with their liberties only; and every of them respectively within their several jurisdictions, shall execute the ordinances aforesaid as to the nomination of overseers, &c.; and the churchwardens and overseers, or the most part of them, of such parishes which extend as aforesaid, shall, without dividing themselves, execute their office in all places within the said parish, and make one account before the said head officer of the town or place corporate, and one other before the said justice of the peace, or any two of them. *Ibid. s.* 9.

It must be either a parish or township.

5. No district can separately provide for its poor unless it is either a *parish*, within the 43 of *Eliz.*, or a *township* or a *village*, within the 13 and 14 *Car. Hilton v. Pawle, Crooke's Reports*, 92. 1 *Bott*, 32. *Nicholas v. Walker, Crooke's Reports*, 394. 1 *Bott*, 33.

Separate overseers may be appointed for a village if a parish by reputation.

6. Separate overseers may be appointed for a village if it was at the time of the passing of the 43 *Eliz.* and has been ever since, a parish by reputation. *Nicholas v. Walker, Ib.*

7. And it is indispensable that this reputation shall not have commenced subsequently to the 43 *Eliz.* (See *pl.* 5, *p.* 2, *ante.*) Such reputation not to have commenced before the 43 Eliz.

8. The appointment of overseers must be for a *parish, township,* or *village,* and *not* for a *precinct.* *Rex* v. *Severn and Arnold, T.* 29 and 30 *Geo.* 2. 1 *Bott,* 4. The appointment must be for a parish, township, or village.

9. A township or village may be extraparochial; the powers of the 43 of *Eliz.* were construed to be extended, by the 13 and 14 *Car.* 2. *c.* 12. to all townships and villages, whether parochial or extraparochial. *Rex v. Inhabitants of Bedford, E.* 8 *Geo.* 1. 1 *Strange's Reports,* 512. 1 *Bott,* 36. 1 *Nolan's Poor Laws,* 10. The 43 Eliz. extends to all townships and villages.

10. The statute directs overseers to be appointed within the several *townships* and *villages* within the several *counties,* without saying, within the several *parishes* in the said counties, so that it appears not to be material whether the township or village is within any parish or not. 13 and 14 *Car.* 2. *c.* 12. Overseers to be appointed in the several townships, &c. within the several counties.

11. But the place must be a *township* or *village.* A place consisting of *two houses* cannot be considered a township or village. *Rex v. Denham, E.* 8 *Geo.* 2. 1 *Bott,* 37. 1 *Nolan's Poor Laws,* 13. It must be a township or village.

12. A good return may be to a *mandamus* to appoint overseers for an extraparochial place, *that it was not, nor ever had been, reputed to be a township or village. Rex v. Welbeck, M.* 14 *Geo.* 2. 2 *Strange's Reports,* 1143. 1 *Bott,* 38. 1 *Nolan's Poor Laws,* 11. 13. Return to a mandamus.

13. A place in a parish must be a *township* or *village,* or it cannot have overseers distinct from the parish. *Rex v. Showler and Alter, T.* 3 *Geo.* 3. 3 *Burrow's Reports,* 1391. 1 *Bott,* 41. A place in a parish must be a township or village, and have distinct overseers.

14. The place must either be a *village* or a reputed *village;* and if it is found by the sessions to be a *village,* the appointment of separate overseers follows of course. *Rex v. Justices of Bedfordshire, E.* 22 *Geo.* 2. *Caldecott's Reports of Settlement Cases,* 167. 1 *Bott,* 48. 1 *Nolan's Poor Laws,* 10. 15. *Rex v. Runton or Ranton Abbey,* 2 *Term Reports,* 207. 1 *Bott,* 56. 1 *Nolan,* 13, 14, 16, 17, 18, 22, 23. Must either be a village or reputed village.

As to what is a Township or Village.

What is a township or village.

15. It is very difficult exactly to define what is a *township* or a *village;* it must be left to the judgment of the court upon the circumstances of a case stated *per Lord Hardwicke, C. J. in Rex v. Denham, Burrow's Settlement Cases,* 37.

A place consisting of one or two houses neither a township nor village.

16. A place consisting of a *single* house, or *two* houses, cannot be considered a *town* or *village,* even if it had been formerly a *town* or *village,* and the houses were decayed and gone. *Rex v. Denham, E.* 8 *Geo.* 2. 1 *Bott,* 37. 1 *Nolan's Poor Laws,* 13.

What is a village according to the modern acceptation of village.

17. A *village,* according to the modern acceptation of *village,* is a place that has a constable, and it ought to have the reputation of a *town* or *village,* and a *village* must at least consist of *two* houses. *Rex v. Belvoir Castle, M.* 2 *Geo.* 2.

Although but one or two houses in a place, it may be a village.

18. Although there is but *one* or *two* houses in a place, yet it may be a *village* by reputation; and where there is a large assemblage of houses, reputation is not necessary, for a place may become a *village* in fact, though not numerically so. *Dolting v. Stoklane, Fortescue's Reports,* 219.

Where there is a constable.

19. Where there is a constable, there is a *township. Rex v. Sir Watts Horton, per Buller, J.*

An extra parochial place with five houses is not a township or village.

20. An extraparochial place, consisting of *five* dwelling-houses and farms, was held not to be a *township* or *village* to which a removal may be made. *Rex v. Grafton, E.* 10 *Geo.* 2. *Burrow's Settlement Cases,* 101. 2 *Strange's Reports,* 1071. 1 *Bott,* 37. 1 *Nolan's Poor Laws,* 15.

And so where there is one capital messuage and four cottages.

21. Where there was one capital messuage and four labourers' cottages, it was held not to constitute a *village* for the purpose of having separate overseers. *Rex v. Showler and Alter, T.* 3 *Geo.* 3. 3 *Burrow's Reports,* 1391. 1 *Bott,* 41. 1 *Nolan's Poor Laws,* 15.

The site of a cathedral and its area not a village.

22. The space comprehending the site of a cathedral, and the area round it, does not constitute a *village,* though there are many houses on it. *Rex v. Justices of Peterborough, H.* 23 *Geo.* 3. *Caldecott's Reports of Settlement Cases.* 1 *Bott,* 50. 1 *Nolan's Poor Laws,* 15.

Hamlet and village synonymous.

23. An appointment of overseers for a "*hamlet*"

is good, for *hamlet* and *village* are synonymous terms. *Rex v. Morris*, 4 *Term Reports*, 550. 1 *Bott*, 6. 65. 1 *Nolan's Poor Laws*, 11.

As to their number:

What number of overseers are to be appointed.

24. The number of overseers, *exclusively of the churchwardens*, for any one parish must not be *more* than *four*, nor *less* than *two*, except where the parish is divided into *townships*, in which case each *township* may have *four*, *three*, or *two* overseers; and if more than *four* are appointed, the appointment is void, not only to those above that number, but as to every one of the persons appointed. *Rex v. Loxdale*, 1 *Burrow's Reports*, 446. 1 *Bott*, 21. *Rex v. Morris*, 4 *Term Reports*, 550. *Rex v. Harman*, 2 *Sessions Cases*, 148. 1 *Bott*, 19. *Rex v. Clifton*, 2 *East's Reports*, 168. 1 *Bott*, 24. 1 *Nolan's Poor Laws*, 47, 48.

There must be two overseers.

25. There must be *two* overseers at the least, distinct from the churchwardens, and the aggregate body should consist of at least more than *two* persons. 13 *East's Reports*, 142. 1 *Nolan's Poor Laws*, 48.

As to the powers of a local act directing two overseers to be appointed annually for a place does not repeal the 43 Eliz.

26. A local act directed, that the then overseers should continue to be overseers for the remainder of the current year, and until *two* others should be appointed, and that *two overseers* should be appointed annually. It was held, that this local act did not repeal the 43 *Eliz. c.* 2, *s.* 1. (*pl.* 1, *p.* 1, *ante*), and that an appointment of *four* overseers for the parish was valid. *Rex v. Pinney and another*, *M.* 4 *Geo.* 4. 2 *Barnewall and Cresswell's Reports*, 322. (*See Plowden*, 112, 113, *and Rex v. Burridge*, 3 *Peere Williams*, 461.)

They must be substantial householders.

27. The overseers (beside the churchwardens for the time being, who are always overseers by virtue of their office) must be *substantial* householders. *Rex v. Searle*, 1 *Bott*, 3.

Who may be appointed.

Partners carrying on trade in one place and residing in another county

28. Persons carrying on trade in partnership, having a dwelling-house, yard, and premises in a parish in *London*, all the partners being in the habit

are liable to serve the office of overseer for the parish where the business is carried on.

of frequenting the premises daily for the purpose of business, but none of them residing there, the dwelling-house being inhabited by a clerk, who managed the business for them, but the rent, rates, and taxes were paid by the firm, it was held, that *each partner was a householder* within the 43 *Eliz. c.* 2. and *liable to serve the office of overseer. Rex v. Poynder, H.* 3 and 4 *Geo.* 4. 1 *Barnewall and Cresswell's Reports*, 178.

The appointment of other than substantial householders.

29. The appointment of any other than *substantial householders* may be quashed by application to the Court of King's Bench. *Rex v. Weobly in Hertfordshire*, 2 *Strange's Reports*, 1261. 1 *Bott*, 4. 1 *Nolan's Poor Laws*, 53.

Where day labourers may be overseers.

30. Where there are *no persons more wealthy*, two day labourers, with some land annexed to their cottages, of whom one only is a proprietor and the other a farmer's servant, are competent to be appointed overseers of the poor. *Rex v. Stubbs*, 2 *Term Reports*, 406. 1 *Bott*, 5.

A woman may be an overseer.

31. Where there are not a sufficient number of men qualified, a woman may be appointed, if the necessity of the case requires it. *Rex v. Stubbs*, 2 *Term Reports*, 395. 1 *Bott*, 10. *Rex v. Chardstock*, 16 *Viner's Abridgement*, 415. 1 *Bott*, 11. note (*b*).

Persons remaining only a part of a year are eligible.

32. Although the appointment of persons resident *only* for a part of the year is discouraged by the courts, yet such persons are eligible in cases of *necessity*. *Rex v. Moore, Carthew's Reports*, 161. 1 *Bott*, 9. 1 *Nolan's Poor Laws*, 50.

The justices are to determine the necessity of such an appointment.

33. But the justices are to determine where the *necessity* exists, they "*having a discretionary power of approbation.*" *Rex v. Stubbs*, 2 *Term Reports*, 395. 1 *Bott*, 11. *Rex v. Gayer*, 1 *Burrow's Reports*, 245. 1 *Bott*, 9. 1 *Nolan's Poor Laws*, 50.

34. The following classes are exempt from being appointed overseers of the poor, viz.:

Churchwardens.

35. Churchwardens, during their continuance in office.

Clergymen.

36. Clergymen, though without cure of souls.

Dissenting ministers.

37. Dissenting ministers, taking the oaths, and

subscribing the declaration and articles pointed out by 1 *W. and M. c.* 18. although they be also engaged in a trade. 1 *W. and M. c.* 18. § 1.

38. Peers, by reason of their dignity. Peers.

39. Members of parliament, by reason of their privilege. *Ibid.* Members of parliament.

40. Aldermen of London. Aldermen of London.

41. Justices of the peace, as having the control of overseers' accounts. Justices of the peace.

42. Practising barristers and attorneys, though there be a special custom for every parishioner to serve, according to the situation of his house. Practising barristers and attorneys.

43. The president, commons, and fellows of the College of Physicians, (whose exemption however extends no farther than the city of *London,*) but apparently no other physicians. Physicians.

44. Freemen of the company and corporation of surgeons established by 18 *Geo.* 2. *c.* 15. who have been examined and approved, pursuant to the rules of the company, so long as they exercise surgery, and no longer. Freemen of the corporation of surgeons in London.

45. Apothecaries using their art in or within seven miles of *London,* being free of the Apothecaries' Company (recognised by 6 and 7 *W.* 3. *c.* 4.), and having been examined and approved, and all persons using the said art in any other part of *England, Wales,* or *Berwick-upon-Tweed,* having served an apprenticeship of seven years according to the stat. 5 *Eliz.* so long as they exercise the art, and no longer. Apothecaries.

46. Serjeants, corporals, drummers, and privates of militia, from the time of their enrolment until they be regularly discharged; but there is no exemption enacted for the officers of that force. Non-commissioned officers, &c. of militia.

47. Captains in the guards. Captains in the guards.

48. Yeomen in ordinary of the king's body guard. Yeomen in ordinary.

49. Officers of the army, navy, or marines, whether on whole or half pay, from their liability to be sent on service. Officers in the army.

50. Persons apprehending and prosecuting to conviction any one guilty of privately stealing by night or day to the value of five shillings in a shop, warehouse, coach-house, or table, or any accessories be- Persons apprehending felons.

overseers of the poor, and may, on any breach of the condition thereof, be put in suit by and in the names of the churchwardens and overseers of the poor for the time being, by the direction of the vestry or select vestry, for the benefit of the parish, in the manner hereinafter provided. *Ibid. s.* 7.

54. The same provision is extended to all townships, villages, and places having separate overseers, and maintaining their poor separately. *Ibid. s.* 35.

At what Time to be nominated, and by whom.

When the appointment is to be made.

55. The appointment of overseers of the poor directed by the 43 of *Eliz.* to be in Easter week, or within a month after Easter, (see *pl.* 1. *p.* 1.) shall be made on the 25th of March yearly, or within fourteen days next after, in the same manner as directed by the 43 *Eliz.* 54 *Geo.* 3. *c.* 91.

If made on a Sunday.

56. It is doubtful whether an appointment made on a *Sunday* can, under any circumstances, be valid; at all events unless it is shown to have been made fairly, the fact of its having been made on a *Sunday* will incline the Court of King's Bench against it, as affording presumption that it was clandestine. *Rex v. Merchant and Allen,* 1 *Bott,* 29. *Rex v. Clerkenwell, Foley's Poor Laws,* 4. 1 *Bott,* 25. *Rex v. Butler and others,* 1 *Blackstone's Reports,* 649. 1 *Bott,* 28. *Rex v. Overseers of Bridgewater,* 1 *Cowper's Reports,* 139. 1 *Bott,* 29.

Judicial acts done on a Sunday void.

57. Although *ministerial* acts may be done on a *Sunday,* but this being a *judicial* act, if done on that day it would be void. *Waite v. Stokes, Godbolt's Reports,* 280. 1 *Nolan's Poor Laws,* 55, note (1). *Swan v. Broome,* 3 *Burrow's Reports,* 1595. *Rex v. Forrest,* 3 *Term Reports,* 78. 1 *Bott,* 17.

Where two appointments made on the same day.

58. Where two appointments are made on the same day, each being of a sufficient number of overseers, the *first* appointment is good, and the *second* void. *Rex v. Serle,* 1 *Bott,* 24. *Rex v. Merchant and Allen, ib.* 29. 1 *Nolan's Poor Laws,* 54. 56.

If the appointment is not made within the time limited by the statute.

59. If the appointment of overseer is not made within fourteen days next after the 25th day of

March, but afterwards, the appointment is not therefore void. *Rex v. Sparrow, H.* 13 *Geo.* 2. 2 *Sessions Cases,* 140. 2 *Strange's Reports,* 1123.

Appointment once made cannot be altered but on appeal.

60. But an appointment being once made, it cannot be changed or superseded except on an appeal to the *Quarter Sessions. Rex v. Great Marlow,* 2 *East's Reports,* 244. 1 *Bott,* 18. *Rex v. Morris,* 4 *Term Reports,* 550, *and Rex v. Besland,* 1 *Bott,* 21.

The appointment to be made by justices out of sessions.

61. The appointment of overseer of the poor must be made by the justices *out of sessions;* the *quarter sessions* have no power to make such appointment. *Rex v. Flag and Chilmerton,* 1 *Sessions Cases,* 260. *Foley's Poor Laws,* 7. 1 *Bott,* 16.

Where a parish is partly within a town corporate and partly within the county.

62. Where a parish is partly within, and partly without a corporate jurisdiction, though all the overseers when appointed may act indiscriminately for the *whole* parish, but their original appointment should be made by *four* justices, *two* for the part within the county, and *two* for the part within the corporate jurisdiction. *Rex v. Butler and another,* 1 *Bott,* 16. 1 *Nolan's Poor Laws,* 45.

Churchwardens are overseers by virtue of their office.

63. Churchwardens require no specific appointment by justices in order to give them the authority of overseers, for they are overseers, by 43 *Eliz.,* in virtue of their office of churchwarden; but the other overseers can become so only by specific appointment, (and this, *as no usage, however ancient,* will entitle the parishioners to elect them,) made by the justices. *Rex v. Forrest,* 3 *Term Reports,* 138. 1 *Bott,* 17. 1 *Nolan's Poor Laws,* 54.

The appointment must be in writing under the hands and seals of the justices;

64. After the justices have made their *selection,* the appointment must be made in writing under their hands and seals. *Rex v. Arnold,* 1 *Strange's Reports,* 101. 1 *Bott,* 16.

and to be signed and sealed in each other's presence.

65. The justices should not only sign and seal, but the signing and sealing should be in *each other's presence;* for this is not merely a *ministerial* act, like the allowance of a rate, but it is a *judicial* act: and as a general rule, where a statute requires the concurrence of *two* magistrates, they should both act together. *Rex v. Arnold,* 1 *Strange's Reports,* 101.

1 *Bott*, 16. *Rex v. Great Marlow*, 2 *East's Reports*, 244. 1 *Bott*, 18. *Rex v. Forrest*, 3 *Term Reports*, 38. 1 *Bott*, 17.

But the justices may confer together, and agree, and sign and seal afterwards separately.

66. But by a more recent case it may be considered that the spirit of this rule is satisfied if the magistrates *have conferred together and agreed*, leaving nothing to do but the signing and sealing, though the signing and sealing is done afterwards by them *separately*. *Battye v. Gresley and others*, 8 *East's Reports*, 327.

Overseer dying or removing, or becoming insolvent.

67. If an overseer dies, or removes from the parish or place for which he was appointed, or becomes insolvent before the expiration of his office, *two justices* may, on oath of the fact, appoint another in his stead, who shall continue until new overseers are appointed. 17 *Geo.* 2. *c.* 38, *s.* 1.

Overseer removing to deliver over all books, &c.

68. If any overseer shall remove, he shall before removal deliver over to some churchwarden, or other overseer, his accounts, verified on oath, with all rates, assessments, books, papers, money, and other things concerning his office. *Ibid.*

Overseer dying, his executors, &c. to pay the money, &c.

69. If any overseer shall die, his executors or administrators shall, within *forty days* after his death, deliver over in like manner all things concerning his office, and shall pay out of the assets of the deceased overseer all money remaining due, which he had received by virtue of his office, *before any other debts are paid*. *Ibid.*

Supplementary appointment.

70. When the full number of overseers has not been appointed by the first instrument, it is competent to the justices to add the rest by *one* or *more supplementary* appointments. *Rex v. Besland*, 1 *Bott*, 21. *Rex v. Morris*, 4 *Term Reports*, 550. 1 *Bott*, 23. and see, *per Lawrence, J. Rex v. Clifton*, 2 *East's Reports*, 177.

Overseers continuing living insolvent and resident in the parish will remain in office till the end of the time limited for the appointment of new overseers.

71. Every overseer who continues living solvent and resident in the parish or place for which he is appointed, will remain in office until the end of the period limited for the appointment of the overseers for the next year, *and no longer*, though no successors are appointed; nor does the authority of churchwardens, *as overseers of the poor* by virtue of

their office, continue beyond the expiration of the overseers' time, *though "liable to be revived by the appointment of new overseers, if the churchwardens continue in office beyond the overseers' regular year."* *Rex v. Sparrow*, 1 *Bott*, 25. 1 *Nolan's Poor Laws*, 53. See 1 *Nolan*, 52; and also *per Lord Ellenborough, C. J. Rex v. St. Margaret's, Leicester*, 8 *East's Reports*, 333.

As to obtaining, enforcing, or avoiding the Appointment.

72. If the magistrates do not make an appointment of overseers *within fourteen days* next after the *25th of March* (*pl.* 1, *p.* 37. *and pl.* 55, *p.* 46 *ante*), the court of K. B. will grant a *mandamus* to compel them. 1 *Nolan's Poor Laws*, 44. If the magistrates do not make an appointment.

73. *If there shall be no such nomination of overseers, every justice of the division shall forfeit* 5*l.* *to the poor, to be levied by the churchwardens and overseers, or one of them, by distress by warrant from the sessions.* 43 *Eliz. c.* 2. *s.* 10. If no nomination the magistrate shall forfeit *5l.*

74. But after the magistrates have made the appointment, it may be enforced against the overseers, if they refuse to take upon themselves the office, either by indictment, or by obtaining a confirmation of the appointment from the court of K. B. *Rex v. Jones*, 2 *Strange's Reports*, 1146. 2 *Sessions Cases*, 187. 1 *Bott*, 397. 1 *Nolan's Poor Laws*, 38. The appointment may be enforced.

75. A person so appointed is overseer completely by the appointment under the hands and seals of the magistrates, *until* on appeal (*under the* 43 *Eliz. c.* 2. *s.* 6.) the sessions have allowed his excuse, or *until* the court of K. B. have pronounced his appointment void; but its invalidity is a good answer to an indictment, and may be taken advantage of by demurrer, where insufficiency appears on the face of the indictment itself. *Rex v. Pardy*, 1 *Bott*, 339. *Rex v. Burder*, 4 *Term Reports*, 778. 1 *Bott*, 30. A person appointed is overseer until the appointment is pronounced void either by the sessions or the court of K. B.

76. The confirmation of the appointment by the court of K. B. may be by motion when it is brought up by *certiorari*. But it ought not to be brought Confirmation of the appointment.

up, nor if brought up will the court confirm it, until *one session* has passed since the appointment was made, so as to give to the parties interested an opportunity of appealing against it.—*Rex v. Houlditch*, 1 *Bott*, 68.

Of avoiding the appointment.

77. If the object is to avoid the appointment, it may be obtained not only by defending an indictment for refusing to take the office, or by bringing an action of *trespass* or *replevin* for taking a distress under a rate made by *illegal officers*, or in opposing the motion for the confirmation, but it may be directly impeached either by the overseers themselves, *or by any* of the parishioners. *Hilton v. Powle, Croke's Reports in the time of Charles*, 92. 1 *Bott*, 32. *Lowe v. Cobham*, 7 *East's Reports*, 1. 1 *Bott*, 705. *Budd v. Foster*, 4 *Modern Reports*, 157. 1 *Bott*, 34. *Tracy v. Talbot*, 2 *Salkeld's Reports*, 532.

Appeal instanter to the next quarter sessions.

78. An appeal *instanter* lies against the appointment itself under 43 *Eliz. c.* 2. *s.* 6. which provides, that "*if any person shall find himself aggrieved by any act done by the said justices, he may appeal to the* (*next* *) *general quarter sessions, whose order therein shall bind all parties.*" (*See also* 17 *Geo.* 2. *c.* 38†. *s.* 4.) *Rex v. Great Maldon*, 2 *East's Reports*, 244. 1 *Bott*, 71. 1 *Nolan's Poor Laws*, 56.

What is meant by the *next* sessions.

79. By the *next* sessions it must always be understood to mean the next *possible* sessions, to which

---

* The 43*d* of *Eliz.* does not confine the appeal to the *next* sessions, but the 17*th Geo.* 2. *c.* 38. does impose such limitation, and allows costs to the successful party; the appeal therefore must be to the *next* quarter sessions after the party is aggrieved. *Rex v. Coode and others*, 1 *Bott*, 281. *Rex v. Mickefield*, 1 *Bott*, 284. 2 *Nolan's Poor Laws*, 397, 3*d edition.*

† Intituled "*An act for remedying some defects in the act made in the* 43*d year of the reign of queen Elizabeth, intituled* 'An act for the relief of the poor.'"

an appeal can be made after the appointment, &c. *Rex v. Justices of Sussex*, 15 *East's Reports*, 207.

80. Each of the justices who made the appointment, and each of the parish officers, should be served with a copy of the notice of appeal, containing the grounds of the appeal. *Rex v. Justices of Essex.* 1 *Barnewall and Alderson's Reports*, 210. The justices should have notice of appeal.

81. If the appointment was made by persons who were *not justices*, no appeal is necessary; but if the party appeals, and calls the persons in question in the notice by *the title of justices*, he concludes himself, and cannot urge that they are not justices; though the appointment by persons not justices is not *ipso facto* without appeal, yet, where the defect of jurisdiction is merely that the justices are neither of them of the *quorum*, the *proper* way to avoid the appointment is by *appealing*. *Rex v. Fisher, and Rex v. Towil, Caldecott's Reports of Settlement Cases*, 135. 1 *Bott*, 69. *Albrighton v. Skipton*, 1 *Strange's Reports*, 300. 1 *Nolan's Poor Laws*, 56. If the appointment is made by persons not justices.

82. The appointment of overseer may be questioned *collaterally* in an appeal against an order of removal made to an extra-parochial place having no officers, or to a township or small district, when it ought to have been made to a *parish at large*, or to a *parish at large* when it ought to have been made to *one of the townships* in that parish. (*See Rex v. Kirby Stephen, Burrow's Settlement Cases*, 664. 1 *Bott*, 64. *Rex v. Denham, Burrow's Settlement Cases*, 35. *Dolting v. Stokelane, Fortescue's Reports*, 219. 1 *Bott*, 35. *Rex v. Temworth, Caldecott's Reports of Settlement Cases*, 28. 1 *Bott*, 45. *Rex v. Swalcliffe, Caldecott's Reports*, 248. 2 *Bott*, 690. The appointment may be questioned collaterally.

83. And the appointment may be questioned in an appeal against an order of removal made to a wrong district. *Forest of Dean v. Parish of Linton*, 2 *Salkeld's Reports*, 487. Order of removal to a wrong district.

84. On any of such appeals to the quarter sessions, that court may, when they are *in doubt*, reserve a case for the opinion of the court of K. B.; and a party having a right of appeal, may, either without exercising that right, or after having exer- Special case may be reserved on appeal.

cised it *unsuccessfully*, remove the appointment by *certiorari* to the court of K. B. and move that it may be quashed *at any time before the expiration of the time for which the appointment was made*, but not afterwards. *Rex v. Great Marlow*, 2 *East's Reports*, 244. 1 *Bott*, 71. See *Rex v. Butler*, 1 *Sir W. Blackstone's Reports*, 649. *Rex v. Standard Hill; see the next pl.*

Certiorari to remove the appointment.

85. An appointment of overseers may be removed into the court of K. B. by *certiorari*, without appealing against it to the quarter sessions, and the court will go into the question upon affidavits, without the place for which the appointment is made is a *township* or *village;* and if it appears by the affidavit that it is such, and it is not stated to be such, or that it is reported to be such, the court will quash the appointment. *Rex v. Standard Hill, M.* 6 *Geo.* 3. 4 *Maule and Selwyn's Reports*, 378.

The propriety of appointment may be questioned.

86. And lastly, the propriety of the appointment may be questioned by a motion for a *mandamus*, to be directed to *two justices of the place*, commanding them to appoint overseers for the proper district. (*See p.* 46, 47, *pl.* 55 *to* 62, *ante*).

As to the Constitution and Incidents of the Office of Overseer.

Where a parish extends into more counties than one.

87. Where a parish or township extends into more counties than one, or part lies within the liberties of a corporate place and part without, "*the churchwardens and overseers, or the most part of them, of the parishes that do extend into such several limits and jurisdictions, shall, without dividing themselves, duly execute their office in all places within the said parish, in all things to them belonging.*" 43 *Eliz. c.* 2. *s.* 9.

All acts to be done by a majority of officers.

88. And all acts which the churchwardens and overseers have power to do, are done with a sufficient jurisdiction if done by a majority of them. *Ibid. s.* 1. 5. 9.

Overseers of places where

89. Overseers of the poor, in townships or places

where there are *no churchwardens*, shall from time to time do, perform, and execute all and every the acts, powers, and authorities concerning the relief of, and other matters and things relating to the poor, *as churchwardens and overseers* of the poor may do, perform, and execute; and shall lose, forfeit, and suffer all such pains and penalties for neglect, abuse, or non-performance thereof, *as churchwardens and overseers* of the poor are liable to. 17 *Geo.* 3. *c.* 38. *s.* 15.

there are no churchwardens to act as churchwardens as to the matters of the poor.

90. And they have the same jurisdiction as to the acts and duties required by the 59 *Geo.* 3. *c.* 12. *s.* 25. (*p.* 59. *pl.* 117, *post.*)

And they have the same jurisdiction.

91. As to apprentices to the sea service, overseers of *townships* have all the powers as churchwardens or overseers of a parish. 2 *and* 3 *Ann, c.* 6. *s.* 3. *p.* 15, *ante.*

Jurisdiction of overseers of townships, &c.

92. Overseers are entitled to have the custody of the instruments by which they are appointed. *Rex v. Stoke Golding, M.* 1817. 1 *Barnewall and Alderson's Reports*, 173. 1 *Phillips's Law of Evidence, 6th Edit.*

Overseers to have the custody of the instruments of appointment.

As to the general Duties and Powers of Overseers.

93. "The churchwardens and overseers, or the greater part of them, shall take order from time to time, by and with the consent of two or more justices of peace *for setting to work* the children of all such whose parents shall not, by the churchwardens and overseers, or the greater part of them, be thought able to keep and maintain their children; and also *for setting to work* all persons, *married* or *unmarried*, having no means to maintain themselves, and use no ordinary and daily trade of life to get their living by: and also to raise weekly or otherwise (by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes impropriate, propriations of tithes, coal-mines, or saleable underwoods in the said parish, in such competent sum and sums of money as they shall think fit), a convenient stock of *flax*,

Churchwardens and overseers to set the poor to work, &c.,

and purchase articles for that purpose.

hemp, wool, thread, iron, and other necessary ware and stuff, to set the poor on work: and also competent sums of money for and towards the necessary relief of the *lame, impotent, old, blind, and such other among them, being poor and not able to work,* and also for the putting out of such children to be apprentices, to be gathered out of the same parish, according to the ability of the same parish, and to do and execute all other things as well for the disposing of the said stock, as otherwise concerning the premises as to them shall seem convenient." 43 *Eliz. c.* 2. *s.* 1. (*see pl.* 102. *p.* 55, *post.*)

Churchwardens and overseers to meet once a month on a Sunday, under the penalty of 20*s.*

94. The *churchwardens* and *overseers* (unless prevented by sickness, or other just cause, to be allowed by two or more justices,) "*shall meet together at the least once every month in the church of the parish upon the Sunday in the afternoon after divine service,* there to consider of some good course to be taken, and of some meet order to be set down in the premises;" *and if they neglect such meeting, or are otherwise negligent in their office, they shall forfeit for every default* 20*s. to the poor, to be levied by one of the churchwardens or overseers by the warrant of two justices, by distress, or in default thereof any two justices may commit the offender to the common gaol, there to remain without bail or mainprize till the forfeiture shall be paid. Ibid. s.* 2.

Exception as to extra-parochial places.

95. Except in extra-parochial places where they have no church to meet in. 8 *Modern Reports,* 40.

Notice of the appointment necessary.

96. And no overseer can be adjudged guilty of absenting himself from such meeting until he has had notice of his appointment. *Rex v. Harman,* 1 *Bott,* 335.

As to the Protection of Overseers whilst in Office.

Protection of churchwardens and overseers in their office.

97. The legislature, by various enactments, has given protection to churchwardens and overseers against vexatious actions, which the execution of their various duties are likely to bring upon them, and also giving to them various advantages in such

actions with respect to the forms of pleading, costs, and other matters. The acts are, 43 *Eliz. c.* 2. *s.* 19. 7 *Jac.* 1. *c.* 5. 21 *Jac.* 1. *c.* 12. 17 *Geo.* 2. *c.* 5. *s.* 34. 17 *Geo.* 2. *c.* 38. *s.* 8, 10, &c. 24 *Geo.* 2. *c.* 44. *s.* 6, 7, 8.

If an action be brought against a churchwarden or overseer.

98. If an action is brought against *a churchwarden or overseer of the poor*, or other person who in his aid, or by his order, shall do any thing concerning his office, he may plead the general issue, and give the special matter in evidence; and if he shall obtain a verdict, or the plaintiff shall be nonsuited, or suffer discontinuance, he shall have (*treble damages with costs by* 43 *Eliz. c.* 2. *s.* 19.) *double costs*: the *venue* must be laid in the county where the fact was committed. 7 *Jac.* 1. *c.* 5.

Overseers and others acting under the warrant of a justice are under the protection of this act.

99. Overseers of the poor, and all officers acting under a justice's warrant, are within the protection of the 24 *Geo.* 2. *c.* 44 *. *Jackson's Case, Loffi's Reports*, 249. *Buller's Nisi Prius*, 24. 1 *Bott*, 325. *Harper v. Carr, E.* 37 *Geo.* 3. 7 *Term Reports*, 270. 1 *Bott*, 326.

Punishment of overseers for neglect of duty, abuse of office, &c.

100. The legislature, in providing for the protection of overseers, has not been inattentive to their punishment when they neglect their duty, abuse their powers, or refuse to fulfil their contracts.

Neglect of duty in office, and non-acceptance of the office.

101. For neglect of duty and abuses in office, and for non-acceptance of the office itself, they are punishable by indictment; but where the abuse has been very flagrant, the court of K. B. will grant an information. *Rex v. Slaughter, Caldecott's Reports of Settlement Cases*, 247. *n.* (*a*). 2 *Nolan's Poor Laws*, *c.* 36. *s.* 1. 13 *and* 14 *Car.* 2. *c.* 12.

Overseer neglecting to provide for the poor is indictable.

102. If an overseer *neglects* to provide for the poor, he is *indictable*; and if he *relieves the poor when there is no necessity for it*, it is a *misdemeanor*. *Tauney's Case, E.* 3. *Ann.* 16 *Viner's Abridge-*

* Intituled "An act for the rendering justices of the peace more safe in the execution of their office, and for indemnifying constables and others acting in obedience to their warrants."

ment, title Poor, 415. 1 *Bott,* 333. 2 *Nolan's Poor Laws,* 372. 3*d Edit.*

Parish officers neglecting to obey the directions of the act.

103. A churchwarden, overseer, or other parish officer, neglecting to obey the directions of this act, where no penalty is provided by it, being convicted thereof on oath before two justices, in two calendar months after the offence committed, shall forfeit not exceeding 5*l.* nor less than 20*s.* to the use of the poor, to be levied by distress. 17 *Geo.* 2. *c.* 38. *s.* 14.

Punishment of parish officers neglecting their duty, &c.

104. Two justices at any special or petty sessions, upon complaint upon oath of any neglect of duty, or disobedience of any lawful warrant or order of any justice, by any overseer of the poor, or other parish officer (such person having been duly summoned to appear and answer the charge), may impose, upon conviction, any reasonable fine not exceeding 40*s.* upon the overseer or other parish officer, as a punishment for disobedience or neglect of duty: and if not paid may by their warrant levy the same by distress and sale of the goods and chattels of the offender, rendering to him the overplus (if any) after deducting the fine and the charges of the distress and sale; to be applied to the poor of the parish or place where the offender shall reside, at the discretion of the justices; and for want of distress, the offender shall be committed to the house of correction for any time not exceeding *ten* days. 33 *Geo.* 3. *c.* 55. *s.* 1.

Appeal to the next sessions.

105. Persons aggrieved may appeal to the *next sessions* upon giving ten days' notice thereof.

No person acting under a warrant of a justice to be deemed a trespasser ab initio.

106. No person acting under such warrant of distress shall be deemed a trespasser *from the beginning* by reason of any irregularity in the warrant, or proceedings thereon. *Ibid. s.* 2.

arishioners may be witnesses in actions against parish officers.

107. In all actions to be brought in the courts at Westminster, or at the assizes, for the recovery of money *mispent,* or taken to *their own use* by churchwardens or overseers, the evidence of the parishioners, other than such as receive alms, shall be admitted. 3 *W. c.* 11. *s.* 12.

Neglecting to give information of a lunatic pauper.

108. If an overseer neglects to give information to

a justice of the peace of a lunatic pauper, he incurs a penalty of not exceeding 10*l.* nor less than 40*s.* 48 *Geo.* 3. *c.* 96. *s.* 18 *.

109. And a like penalty upon overseers of the poor neglecting to give information to a justice of the peace as to the state of the lunatic. 59 *Geo.* 3. *c.* 127. *s.* 3.

The like not giving information of the state of a lunatic pauper.

110. If churchwardens or overseers, or other persons having the collection of the poor rates, or having the management of the poor, shall, either in their own name, or in the name of any other person, either directly or indirectly, *provide, furnish, or supply,* for his or their *own profit* any *goods, materials,* or *provisions* for the use of any workhouse whilst in office, or shall be concerned, either directly or indirectly, in any contract or contracts relating thereto, shall forfeit 100*l.* with full costs of suit, to any person who shall sue by action of debt or on the case in any of his Majesty's courts of record at Westminster. (Except in places where a competent person for that purpose cannot be found within a convenient distance, in which case *two neighbouring justices* (on proof on oath of that circumstance), by a certificate under their hands and seals, may permit any one or more of the churchwardens and overseers, and *such other person,* to contract and agree for the purposes aforesaid during the time he or they may be in office, which certificate is to be entered with the clerk of the peace, or town clerk of the county, city, town, or district in which such persons shall reside.) 55 *Geo.* 3. *c.* 137. *s.* 6.

Churchwardens, overseers, and others, not to furnish goods, &c. for the workhouse, either directly or indirectly.

Exception as to places where a competent person cannot be found.

111. But an overseer supplying coals individually for the use of the poor is not liable to the penalty, unless he did it with a view to his own profit. *Skinner v. Burke,* 5 *Geo.* 4. 3 *Barnewall and Creswell's Reports,* 6.

Parish officer supplying coals.

112. Where an overseer receives an order for the relief of a pauper, and pays her part in money, and

Overseers relieving a pauper part in money and part in goods from his shop.

* Intituled "An act for the better care and maintenance of lunatics, being paupers or criminals in England." (23d June, 1808.)

by her consent gives her the remainder in *goods* from *his shop*, he is not liable to the penalty of 100*l.* *Proctor v. Mainwaring*, *M.* 60 *Geo.* 3. 3 *Barnewall and Alderson's Reports*, 145.

Churchwarden supplying wheat, &c. for the poor, when he is churchwarden, penalty 100*l.*

113. If a churchwarden supplies wheat and flour for the use of the poor of the parish for which he is appointed, he is liable to the penalty of 100*l.* under the 55 *Geo.* 3. *c.* 137. *s.* 6. although he furnishes the articles at a fair market price. *Pope v. Backhouse*, *E.* 58 *Geo.* 3. 2 *Moore's Reports in the Common Pleas*, 186. 8 *Taunton's Reports*, 239.

Guardians of the poor supplying provisions to the master of a workhouse for the poor, penalty 100*l.*

114. A master of a workhouse appointed by and receiving orders from the guardians of the poor, buying provisions from one of the guardians, it was held that the guardian who sold the provisions was liable to the penalty of 100*l.* under the statute (*p.* 57. *pl.* 110, *ante*). *West v. Andrews*, 2 *Geo.* 4. 5 *Barnewall and Alderson's Reports*, 328.

Guardians of the poor within the meaning of the 55 Geo. 3. c. 137.

115. A guardian of the poor appointed under the 22 *Geo.* 3. *c.* 83, *post*), is within the 55 *Geo.* 3. *c.* 137. *s.* 6. notwithstanding the former act, *s.* 42, imposes a penalty for supplying provisions for the poor by guardians. *West v. Andrews*, *N.* 3 *Geo.* 4. 1 *Barnewall and Cresswell's Reports*, 77.

As to recovering Possession of Parish Houses, &c.

Justices empowered, in certain cases, to deliver the possession of parish houses to overseers.

116. Difficulties have frequently arisen, and considerable expenses have sometimes been incurred, by reason of the refusal of persons who have been permitted to occupy, or who have intruded themselves into parish or town houses, or other tenements or dwellings built or provided for the habitation of the poor, or otherwise belonging to such parishes, to deliver up the possession of such houses, tenements, or dwellings, when thereto required; for remedy whereof it is enacted, that "if any person who shall have been permitted to occupy any parish or town house, or any other tenement or dwelling belonging to or provided by or at the charge of any parish, for

Recovering possession of parish houses, &c.

the habitation of the poor thereof, or who shall have unlawfully intruded himself or herself into any such house, tenement, or dwelling, or into any house, tenement, or hereditament belonging to such parish, shall refuse or neglect to quit the same, and deliver up the possession thereof to the churchwardens and overseers of the poor of any such parish, within one month after notice and demand in writing for that purpose, signed by the churchwardens and overseers, or the major part of them, shall have been delivered to the person in possession, or in his or their absence affixed on some notorious part of the premises, it shall be lawful for any two * justices of the peace, upon complaint to them made by one or more of the churchwardens and overseers of the poor of the parish in which any such house, tenement, or dwelling shall be situated, to issue their summons to the person against whom such complaint shall be made, to appear before such justices at a time and place to be appointed by them, and to cause such summons to be delivered to the party against whom the complaint shall be made, or in his or her absence to be affixed on the premises, *seven* days at the least before the time appointed for hearing such complaint: and such justices are hereby empowered and required, upon the appearance of the defendant, or upon proof on oath that such summons hath been delivered or affixed as is hereby directed, to proceed to hear and determine the matter of such complaint, and if they shall find and adjudge the same to be true, then by warrant under their hands and seals *to cause possession of the premises in question to be delivered to the churchwardens and overseers of the poor* of the parish, or to some of them." 59 *Geo.* 3. *c.* 12. *s.* 14.

Two justices, on complaint by the parish officers, may cause possession to be given.

117. "If any person to whom any land appropriated, purchased, or taken under the authority of

Justices empowered to deliver possession of land appropriated for the poor.

* One justice is competent to receive the original information and issue the summons to appear before two justices. 3 *Geo.* 4. *c.* 23. *s.* 2.

this act for the employment of the poor of any parish, or to whom any other lands belonging to such parish, or to the churchwardens and overseers thereof, or to either of them, shall have been let for his or her own occupation, shall refuse to quit and to deliver up the possession thereof to the churchwardens and overseers of the poor of such parish, at the expiration of the term for which the same shall have been demised or let to him or her; or if any person or persons shall unlawfully enter upon, or take or hold possession of any such land, or any other land or hereditaments belonging to such parish, or to the churchwardens and overseers, or to either of them, it shall be lawful for such churchwardens and overseers of the poor, or any of them, after such notice and demand of possession as is by this act directed in case of parish houses, to exhibit a complaint before *two* justices of the peace, who are authorised to hear and determine the matter thereof, and if they shall find and adjudge the same to be true, to cause possession of such land to be delivered to the churchwardens and overseers of the poor, or some of them, in such and the like manner as are by this act directed with regard to parish houses." (*See pl.* 116.) *Ibid. s.* 25.

Of the Poor Rate.

How a poor rate is to be made.

118. "The churchwardens and overseers of the poor of every parish, or the greater part of them, shall, by and with the consent of two or more justices in the same county, *dwelling in or near* the same parish or division where the same parish doth lie, raise weekly or otherwise (by taxation of every inhabitant, parson, vicar, and other person, and of every occupier of lands, houses, tithes impropriate, propriations of tithes, coal-mines, or saleable underwoods in the said parish, in such competent sum and sums of money as they shall think fit), a convenient stock of *flax, hemp, wool, thread, iron, and other ware and stuff*, to set the poor on work. And

also competent sums of money, for and towards the necessary relief of the *lame, impotent, old, blind, and such other among them, being poor and not able to work;* and also for putting out poor children to be apprentices." (*See pl.* 93. *p.* 53, *ante.*) 43 *Eliz. c.* 2. *s.* 1.

Who are to make the Rate.

Who are to make the rate. Concurrence of the inhabitants not necessary. Mandamus to compel the making a rate. But not the making of an equal rate.

119. The churchwardens and overseers of the poor are to make the rate; the *concurrence* of the inhabitants is not at all necessary, and the court of K. B. will grant a *mandamus* to compel the overseers to make a rate; but the court will not grant a *mandamus* to make an *equal* rate, because it is presumed the overseers will do justice; if they do not, the remedy is by appeal to the sessions. *Tauney's Case,* 2 *Ann.* 2 *Lord Raymond's Reports,* 1009. 2 *Salkeld's Reports,* 531. 1 *Bott,* 77. 1 *Nolan's Poor Laws,* 61, 62. *Rex v. Barnstaple,* 1 *Barnardiston's Reports,* 137. 1 *Bott,* 78. *Lidleston v. Mayor of Exeter,* 1 *Bott,* 77. *Rex v. Weobly,* 1 *Bott,* 112. 1 *Nolan's Poor Laws,* 62.

As to the Purposes of, the Time for which it may be made, and as to reimbursing the Overseers.

The purposes for which a poor rate may be made.

120. The purposes for which a poor rate may be made for setting to work the children of those poor who are not able to keep them, and also all such persons not able to maintain them, and using no ordinary trade to get their living by, and for putting out poor children apprentices: (*See pl.* 93. *p.* 53, *ante.*) 43 *Eliz. c.* 2. *s.* 2.

As to the mode in which the poor are to be relieved.

121. As to the mode in which the poor shall be relieved, and the power and authority of churchwardens with the consent of the majority of the parishioners to purchase houses, and contract for the lodging, &c. of the poor, *see* 9 *Geo.* 1. *c.* 7, title *Mode of relieving and ordering of the Poor, post.*

Constables to be repaid.

122. As to the repayment of constables money expended by them in the relief and removal of poor

persons and of vagrants, *see the* 18 *Geo.* 3. *c.* 19. (*pl.* 131. *p.* 63 *post.*) *and also the* 41 *Geo.* 3 *U. K. c.* 23. *s.* 9. *pl.* 127, *p.* 62.

Expenses of litigating of questions of settlement on removal of paupers.

123. It has been the practice to allow the expenses of litigating questions of settlement on the removal of paupers to be paid out of the poor rate, the *legality* of which has never been disputed. *Rex v. Inhabitants of Essex, E.* 32 *Geo.* 3. 4 *Term Reports,* 595. 1 *Nolan's Poor Laws,* 63.

Expenses of valuation of property of a parish.

124. But it is doubtful whether the expense of a valuation of the property of a parish, which has been directed by a *majority* of the vestry, can be *legally* defrayed out of the poor rate. *See* 1 *Nolan's Poor Laws,* 67. (*n.* 3).

A rate cannot be made to reimburse overseers after they are out of office.

125. After the overseers are out of office, a rate cannot be made to *reimburse* money laid out by them whilst in office; but an overseer may make a new rate *for the relief of the poor,* out of which he may retain to pay himself. *Tauney's Case,* 2 *Salkeld's Reports,* 531. 1 *Nolan's Poor Laws,* 68, 69.

An overseer for several years cannot make a rate to reimburse himself for preceding years.

126. An overseer for several successive years cannot in the last year make a rate to *reimburse* himself for the *preceding* years. *Rex v. Goodcheap, H.* 35 *Geo.* 3. 6. *Term Reports,* 159. 1 *Bott,* 108. 1 *Nolan's Poor Laws,* 69.

Succeeding churchwardens and overseers may repay preceding overseers.

127. Succeeding churchwardens and overseers are empowered to repay money expended by preceding churchwardens and overseers, or *guardians* for the maintenance of the poor, *while there was no rate, or during an appeal,* and in default of such payment, the justices in their quarter sessions, on application to them, shall make an order for payment. 41 *Geo.* 3. *U. K. c.* 23. *s.* 9.

A rate cannot be made to repay money borrowed.

128. A rate cannot be made to repay money borrowed, though for building or repairing the workhouse. *Rex v. Wavell, E.* 19 *Geo.* 3. *Douglas's Reports,* 116. 1 *Bott,* 102. 1 *Nolan's Poor Laws,* 68.

129. The same principle prevails in equity as to church rates, even where the money sought to be reimbursed had been laid out in pursuance of an order of vestry. *Lanchester v. Thompson,* 5 *Madd.* 64; *and Burn's Ecclesiastical Law, 8th edit. by Tyrwhitt, vol.* 1, *p.* 305. *n.* (8).

130. Nor for the payment of a salary to an overseer. But an assistant overseer may be appointed, with a salary, which may be paid out of the poor rate. 59 *Geo.* 3. *c.* 12. *s.* 7. Nor to pay a salary to an overseer.

131. The expenses which are allowed to constables out of the parish rates are those only necessarily incurred by them on behalf of the parish, as relieving or conveying vagrants, &c. within the 18 *Geo.* 3. *c.* 19. *s.* 4. The expenses of an indictment for assaulting a constable in the execution of his duty are not expenses *necessarily incurred, although the prosecution was directed by a magistrate. Rex v. Bird and others, E.* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports,* 522. *Rex v. Saville, M.* 2 *Geo.* 4. 5 *Barnewall and Alderson's Reports,* 180. Expense to constables for parish business.

As to the Time a Poor Rate may be made for.

132. A poor rate may be made prospectively, and if made for *six months*, it would not be bad on that account. *Durrant v. Boys, H.* 36 *Geo.* 3. 6 *Term Reports,* 580. 1 *Bott,* 80. 1 *Nolan's Poor Laws,* 66. Poor rate may be made prospectively.

133. A standing rate cannot be made, for however just at first, it may become unequal. *Rex v. Audley, M.* 12. *W.* 2 *Salkeld's Reports,* 526. 1 *Bott,* 110. 272. 1 *Nolan's Poor Laws,* 193. 3*d edit.* A standing rate cannot be made.

Upon whom a Rate may be made.

134. The poor rate is to be made upon "every inhabitant, parson, vicar, and others, and upon every occupier of lands, houses, tithes impropriate, propriations of tithes, coal-mines, or saleable underwoods in the parish." *See pl.* 118. *p.* 60, *ante.* The poor rate to be made on every inhabitant, &c.

135. A person dwelling in the parish of A., having lands in the parish of B. in his possession and manurance, he is in law a parishioner in B., for by manuring the lands in B., he is by that resident upon it, and is therefore a parishioner of B. A person living in one parish and having lands in another.

as to this purpose. But where there is a farmer of the same lands, the lessor shall not be charged for them in respect of his rent. *Jeffrey's Case, M.* 31 *and* 32 *Eliz.* 1 *Bott,* 122. 1 *Nolan's Poor Laws,* 72, *and see Burn's Ecclesiastical Law,* 8*th Edit. by Tyrwhitt, vol.* 1. 350. *n.* (9.)

Corporate body is rateable.

136. A corporate body is rateable. *Rex v. Gardner and others.* 1 *Bott,* 143. 1 *Nolan's Poor Laws,* 178.

Power to rate owners of certain houses instead of the occupiers.

137. In many parishes, and more especially in large and populous towns, the payment of the poor's rates is greatly evaded, by reason that great numbers of houses within such parishes are let out in lodgings, or in separate apartments, or for short terms, or are let to tenants who quit their residences, or become insolvent before the rates charged on them can be collected; and it hath been found that in many instances *the persons letting such houses do actually charge and receive much higher rents for the same, upon the ground and expectation that the occupiers thereof cannot be effectually assessed to the poor's rates, and will not be charged with, or required to pay such rates, and do thus obtain an undue advantage to themselves;* and by means of which the other inhabitants of such parishes are unjustly compelled to pay much more than their fair and due proportions of the charges of relieving and maintaining the poor; for remedy thereof, after the first of January, 1820, it shall be lawful for the inhabitants of *any parish,* in vestry assembled, and they are hereby empowered, to *resolve and direct, that the owner or owners of all houses, apartments, or dwellings* in such parishes, *being the immediate lessor or lessors of the actual occupier or occupiers,* which shall respectively be let to the occupiers thereof at any rent or rate *not exceeding* 20*l. nor less than* 6*l. by the year, for any less term than one year; or on any agreement by which the rent shall be reserved or made payable at any shorter period than three months,* shall be assessed to the rates for the relief of the poor, for or in respect of such houses, apartments, or dwellings, and the outhouses and curtilages

After 1st January 1820, inhabitants in vestry may direct the owners, being the immediate lessors, to be rated.

thereof, *instead of the actual occupiers;* and the inhabitants so assembled in vestry may, and they are hereby authorised from time to time to rescind, renew, vary, and amend every such resolution and direction as they shall see occasion, so as no such resolution or direction shall extend to assess or charge the owner of any house, apartment, or dwelling which shall, with the outhouses and curtilages thereof, be let at a greater rent than 20l. or less than 6l. as aforesaid; and the churchwardens and overseers of the poor of every such parish are hereby empowered and required to carry into effect all such resolutions and directions of the inhabitants, in vestry assembled, and in pursuance and execution thereof, in all rates to be by them made for the relief of the poor, to assess *by a fair and equal pound rate the owner or owners, being the immediate lessor or lessors of the actual occupier or occupiers* of every house, apartment, or dwelling to which such resolution and direction shall extend, for or in respect of the same, *according to the actual rent at which every such house, apartment, or dwelling shall be let, after making a reasonable deduction from such rent, not exceeding in any case one-half of the same;* and upon non-payment of the sum or sums so to be assessed, the same may and shall be levied upon, and the payment thereof be enforced against, such owner and owners, lessor and lessors, so to be assessed, and his and their goods and chattels, in like manner as rates for the relief of the poor may by law be levied and recovered, and the payment thereof enforced, upon and against any actual occupiers on whom the same are charged. 59 *Geo.* 3. *c.* 12. *s.* 19.

Not to extend to assess the owners of houses, &c. let at 20l. a year and upwards.

By an equal pound rate according to the actual rent.

On non-payment, the same to be levied on the goods of the owner.

138. The goods and chattels of every occupier of any such house, apartment, or dwelling, which shall be found in and about the same, shall be liable to be distrained and sold for raising so much of any such rate or assessment being in arrear, as shall have become due during the occupancy of the person or persons whose goods and chattels shall be so distrained (to be ascertained in a summary way by the justices granting the warrant of distress), so

Goods of occupiers may be distrained for rates to the amount of the rent actually due.

that in no case any greater sum be raised by distress of the goods and chattels of any such occupier, than shall, at the time of making such distress, be actually due from such occupier for rent of the premises on which such distress shall be made: Provided that every occupier who shall pay any such rate or rates, or upon whose goods or chattels the same or any part thereof shall be levied, shall and may deduct the amount of the sum which shall be so paid or levied, out of the rent by him or them payable; and such payment shall be a sufficient discharge to every such occupier for so much of the rent payable by him as he shall have paid, or as shall have been levied on his goods and chattels, of such rate, and for the costs of levying the same. *Ibid. s.* 20.

Occupiers paying rates empowered to deduct the amount out of their rent.

Receivers in certain cases may be rated as owners.

139. Every person receiving or claiming the rent of any such house, apartment, or dwelling, for his or her own use, or receiving the same for the use of any corporation aggregate, or of any landlord or lessor who shall be a minor, under coverture, or insane, or for the use of any person who shall not be usually resident within twenty miles from the parish in which any such house, apartment, or dwelling shall be situated, shall for this purpose be deemed and taken to be, and shall be rateable as the owner thereof. *Ibid. s.* 21.

Persons rated as owners may appeal;

and may vote in vestries.

140. Every person to be rated as the owner of any such house, apartment, or dwelling, who shall think himself or herself aggrieved by any such rate, shall have such and the like remedy by appeal against the same as any other person thereby rated; and every person so rated shall be entitled, as an inhabitant of the parish in and for which he shall be assessed, *to be present and to vote in every vestry or meeting of the inhabitants thereof*, for the execution of the laws for the relief of the poor, or for the consideration of any matter or question in relation thereto, in like manner as the inhabitants of the said parish. *Ibid. s.* 22.

No owner, not being an occupier, to be rated in places where

141. Nothing in this act contained shall extend to give any power or authority to assess the owner (not being the occupier) of any house, apartment,

or dwelling, in any city, borough, or town corporate, in which the right of voting for the election of members to serve in parliament shall depend upon the assessment of the voter to the poor's rate, or to vary or affect the manner of assessing and charging any of the inhabitants or occupiers of houses, lands, or tenements, within any such city, borough, or town corporate. *Ibid. s.* 23.

the right of voting for members to serve in parliament depends on the rating.

142. The reason why the occupier in general is to be so charged is, that the poor rate is not a charge upon the land, but upon the occupier in respect of the land. *Case v. Stephens, Fitzgibbon's Reports,* 207. 1 *Nolan's Poor Laws,* 67.

Poor rate not a charge on the land.

143. The Court of *King's Bench* will not decide who *should be* inserted in the rate and *who not,* of which circumstance the parish officers are the best judges: subject *to appeal. Rex v. Churchwardens of Weobly, T.* 19 *Geo.* 2. 2 *Strange's Reports,* 1259.

The Court of K. B. will not decide who should or who should not be rated.

144. No inhabitant is to be rated for an estate he has *elsewhere,* but only in regard to the *visible* estate he has in the place where he dwells. *Sir Anthony Earby's case,* 1 *Bott,* 124. 1 *Nolan's Poor Laws,* 71.

No inhabitant to be rated for an estate in another parish.

145. The lessee of a stall in a market town, who comes weekly to the market to sell his wares, is not rateable to the repairs of the church; and if a man takes up his lodgings for a week in a town, he is not to be so charged. *Holledge's Case, M. Jac.* 1. 1 *Bott,* 123.

The lessee of a stall in a market coming weekly.

146. If the owner of a house occupies a part only, but his servant occupies other parts, and no one resides in the house but a poor person permitted to do so out of charity, the *owner* is rateable as occupying the whole. *Rex v. St. Mary the Less, Durham. M.* 30 *Geo.* 3. 4 *Term Reports,* 477. 1 *Bott,* 120. 1 *Nolan's Poor Laws,* 171, 177. *Rex v. Aberystwith, M.* 49 *Geo.* 3. 10 *East's Reports,* 354. 1 *Nolan,* 171, 172.

Occupation of part of a house, &c.

147. If a man pulls down a house for which he is rated, and builds on the same spot a new one, for the education, maintaining, and bringing up ten poor girls *on his charity,* the mistress and girls being the only occupiers, and the house solely appropriated for

A house dedicated to charitable purposes is not rateable.

this purpose, no profit being made of the house; it was held that he was not *rateable*, on the ground that no beneficial occupier could be found. *Rex v. Waldo, T.* 23 *Geo.* 3. *Caldecott's Reports of Cases*, 358. 1 *Bott*, 166. 1 *Nolan's Poor Laws*, 184.

But persons living on a charitable foundation for their own benefit are rateable.

148. But where persons, objects of a charitable foundation, in the actual occupation of an alms-house and charity *lands*, &c. together with a certain wood which they were bound to fence at their own charges, and also liable to be dismissed if they infringed the rules of the foundation; it was held they were rateable, under the provision of the 43d of *Eliz. c.* 2, there being no exception of *lands* devoted to charitable purposes in that statute, and in this case there was a beneficial occupation. *Rex v. Munday and others, T.* 41 *Geo.* 3. 1 *East's Reports*, 584. 1 *Bott*, 223. 1 *Nolan's Poor Laws*, 186.

Hospital lands are rateable.

149. Hospital lands are *chargeable* to the poor. *E.* 1 *Ann*, 2 *Salkeld's Reports*, 527. 1 *Bott*, 125.

An officer of a college residing in the college is rateable.

150. An officer of a (*Chelsea*) college residing in the college is *rateable* to the poor for having apartments *distinctly and separately to his own use. Ayre v. Smallpiece*, 24 *Geo.* 2. 1 *Bott*, 131. 1 *Nolan's Poor Laws*, 154, 178.

Such parts of a lunatic hospital occupied by others than the objects of the institution and servants are rateable.

151. But those parts of a lunatic hospital which are appropriated to its particular objects are *not rateable*, but such as are occupied by other (excepting *servants who attend for their livelihood*) are *rateable*, there being no beneficial occupier. *In the Case of St. Luke's Hospital, M.* 1 *Geo.* 3. 2 *Burrow's Reports*, 1053. 1 *Nolan's Poor Laws*, 177, 184.

The rate must be charged on the occupier.

152. The rate must be charged upon the occupiers. *The governors of an hospital, or the poor persons or servants, are not such occupiers, and cannot be rated.* (See *pl.* 150, 151, *above.*) *Rex v. St. Bartholomew's the Less, T.* 9 *Geo.* 3. 4. *Burrow's Reports*, 2435. 1 *Bott*, 139. 1 *Nolan's Poor Laws*, 160.

Lunatic asylums.

153. Assessments to rates for land taken for lunatic asylums are not to be increased. 48 *Geo.* 3. *c.* 96 *.

* Intituled "An act for the better care and main-

154. A corporate body are *occupiers* and *inhabitants* for the purpose of being rated, and the master and fellows of a college are *rateable*, as a corporation, for what they beneficially occupy. *Rex v. Gardiner*, 1 *Bott*, 143. 1 *Nolan's Poor Laws*, 178.

A corporate body and the master and fellows of a college are rateable for what they occupy.

155. A master of a free school occupying a school-house and garden belonging to the school is *rateable*, although they are held by him as a recompense for teaching poor boys of the inhabitants of the parish, *he being the beneficial occupier*. *Rex v. John Catt*, *T.* 35 *Geo.* 3. 6 *Term Reports*, 332. 1 *Bott*, 213. 1 *Nolan's Poor Laws*, 176, 186, 189.

So also a schoolmaster for the school-house, &c.

156. Royal palaces in the occupation of the royal family are not rateable, but servants occupying house and land belonging to the crown are rateable. *Old Windsor, or Rex v. Mathews*, *H.* 17 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 1. 1 *Bott*, 151. 1 *Nolan's Poor Laws*, 178, 192, 194.

Royal palaces not rateable.

157. A beneficial occupier of the king's lands, whether by gift or for wages, is rateable for the same. *Lord Bute v. Grindall and another*, *T.* 26 *Geo.* 3. 1 *Term Reports*, 338. 1 *Bott*, 173. 1 *Nolan's Poor Laws*, 174, 179, 194.

A beneficial occupier of king's lands is rateable.

158. Stables rented by order of the crown, for the use of a regiment, are not rateable, where the lessee himself does not occupy them on his own particular account. *Lord Amherst v. Lord Somers and others*, *E.* 38 *Geo.* 3. 2 *Term Reports*, 372. 1 *Bott*, 184. 1 *Nolan's Poor Laws*, 191.

Stables rented by order of the crown.

159. A master gunner appointed by the crown, and *stated* to be occupier of the king's battery-house, is rateable. Soldiers are not occupiers in the legal sense of the word. *Rex v. Hurdis*, *M.* 50 *Geo.* 3. 3 *Term Reports*, 497. 1 *Bott*, 187. 1 *Nolan's Poor Laws*, 199.

A master gunner occupying the king's battery-house.

160. But soldiers in barracks, supplied with accommodation beyond what was strictly necessary, would be rateable. *Per Lord Ellenborough*, *Rex v. Terrot*, *next pl.*

Soldiers in barracks.

---

tenance of lunatic paupers or criminals in England," passed 23d June, 1808.

Residence by a servant of the crown, and the public offices only.

161. Where residence is merely as a servant of the crown, and for public offices only, there the occupation is not rateable. *Rex v. Terrott, E.* 43 *Geo.* 3. 3 *East's Reports*, 506. 1 *Bott*, 230. 1 *Nolan's Poor Laws*, 197. *Holford v. Copeland*, 3 *Bosanquet and Puller's Reports in the Common Pleas*, 139.

Rule as to public servants.

162. Lord Ellenborough in the above case laid down the rule as to public servants to be as follows: that if the party have the use of the building, or other subject of the rate, as a mere *servant* of the crown, or of *any public body*, or in any other respect for the mere exercise of *public duty* therein, and have no beneficial occupation of, or emolument resulting from it in any personal and private respect, then he is not rateable. The property of the crown *in the beneficial occupation* of a subject, whether he be a civil or a military officer of the crown, is equally rateable. But if the use of or residence upon the property be either as *the servant* of the crown, and for public purposes only, or as a mere public officer or servant, or of any other description, the parties having the use of the property merely for such purposes are not rateable; because the occupation is throughout that of the public, and of which public occupation the individuals are the only means and instruments.

Trustees of a meeting-house, where no profit is made, are not rateable.

163. The trustees of a meeting-house of which *no profit is made* are *not* rateable. *Rex v. Woodward and another, M.* 53 *Geo.* 3. 4 *Term Reports*, 79. 1 *Bott*, 205. 1 *Nolan's Poor Laws*, 182. *Robson v. Hyde, T.* 23 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 310. 1 *Bott*, 164. 1 *Nolan's Poor Laws*, 187.

A private building used as a chapel.

164. But a private building used as a chapel is rateable, *if profit is made of it. Robson v. Hyde, pl. above.*

Methodist chapel rateable for profits of building.

165. The trustees of a methodist chapel receiving money annually for the rent of the pews, are *rateable for the profits* made of the building, though in fact they expend the whole of what they receive in making disbursements for repairs, &c. and to attendants in the chapel, and in paying the salaries of the preachers. *Rex v. Agar and others, T.* 51 *Geo.* 3. 14 *East's Reports*, 256. *Bott, continued to* 1814, 88. 1 *Nolan's Poor Laws*, 188, 189.

166. Where persons were assessed for the tolls of a sluice erected by act of parliament passed for supporting the sluice, "*to be applied for the several purposes of the said act, and for no other purpose whatever.*" It was held not to be sufficient to point out property within the parish, but there must be also some beneficial occupant. Here there was property which was the subject of a rate, but no occupier of it. *Rex v. Commissioners of the Navigation of Salter's Load Sluice to Stanground Sluice, T.* 32 *Geo.* 3. 4 *Term Reports,* 730. 1 *Bott,* 201. 1 *Nolan's Poor Laws,* 189. Tolls of a sluice.

167. The lessee of the tolls of a public bridge not rateable as such. *Rex v. Eyre, E.* 50 *Geo.* 3. 12 *East's Reports,* 416. 1 *Nolan's Poor Laws,* 127. Lessee of tolls of a public bridge.

168. Where one small room, part of a quaker's meeting-house, is occupied by the door-keeper who attends the house when necessary to clean it, for which he has a small salary, it was held that there was *no rateable* occupier. *Rex v. Woodward and another,* 38 *Geo.* 3. 5 *Term Reports,* 79. 1 *Bott,* 205. 1 *Nolan's Poor Laws,* 182. *Rex v. Sculcoates.* Occupancy by a servant to a Quaker meeting-house.

169. Where a house is occupied by a surveyor of the navigation of the river *Lea,* under the trustees of the navigation, he the surveyor is liable for poor rates for the house, although by act of parliament the tolls, &c. are exempt from being rated, and although the trustees have no beneficial interest, but act for the public. *Gregg v. Armstrong and others, Sittings at Westminster after M. T.* 60 *Geo.* 3. 2 *Starkie's Nisi Prius Reports,* 543. 1 *Nolan's Poor Laws,* 178. A house occupied by a surveyor of the river Lea Navigation is rateable.

Land, Houses, &c.

170. All real property and in yearly revenue is rateable to the poor: the word "*land*" includes not only the *surface* of the earth, but whatever is under and over it. 2 *Blackstone's Commentaries,* 18. What is rateable.

171. A farmer is *not rateable* for his stock. *Reg. v. Barking, H.* 5 *Ann,* 2 *Lord Raymond's Reports,* 1280. 1 *Bott,* 126. 1 *Nolan's Poor Laws,* 204. A farmer's stock.

Stock in trade rateable.

172. The stock in trade of a tradesman *is rateable. Rex v. Witney in Oxfordshire, E.* 10 *Geo.* 3. 5 *Burrow's Reports,* 2634. 1 *Bott,* 141. 1 *Nolan's Poor Laws,* 167. *Rex v. Ringwood, T.* 15 *Geo.* 3. *Cowper's Reports,* 326. 1 *Bott,* 148. 1 *Nolan,* 167. *Rex v. Hill, T.* 17 *Geo.* 3. *Cowper's Reports,* 613. 1 *Bott,* 155. *Rex v. Rodd, H.* 22 *Geo.* 3. *Caldecott's Settlement Cases,* 147. 1 *Bott,* 161. 1 *Nolan,* 166.

Personal estate.

173. If personal estate is rateable it must be *local visible property* within the parish. *Rex v. the Overseers of the Poor of Andover, H.* 17 *Geo.* 3. *Cowper's Reports,* 550. 1 *Bott,* 153. 1 *Nolan's Poor Laws,* 189, 3*d edit.*

Sessions cannot add to a rate.

174. *The sessions cannot add to a rate the names of those who have had notice of the appeal, or do not litigate the question at the sessions.* Ibid.

Personal property.

175. Personal property *is rateable,* and the possession of it is evidence from which the justices may draw the conclusion that the property *is* rateable. *Rex v. Dursley, M.* 35 *Geo.* 3. 6 *Term Reports,* 53. 1 *Bott,* 210, 290. *Nolan's Poor Laws,* 200, 201, 221, 222. *See Rex v. Hill, p.* 49. *Rex v. Maddern.*

Persons' names left out of the rate.

176. If the names of persons who ought to be rated are left out of the rate, *the rate must be quashed. Rex v. Darlington, M.* 36 *Geo.* 3. 6 *Term Reports,* 468. 1 *Bott,* 215. 1 *Nolan's Poor Laws,* 200, 221.

Household furniture not rateable.

177. Household furniture is not rateable. *Rex v. White, T.* 32 *Geo.* 3. 4 *Term Reports,* 771. 1 *Bott,* 89, 202. 1 *Nolan's Poor Laws,* 216, 218, 219.

Nor money in the funds.

178. Nor is money out at interest rateable, nor money invested in the public funds. *Rex v. the Churchwardens and Overseers of St. John's, Maddermarket, in Norwich, H.* 45 *Geo.* 3. 6 *East,* 182. 1 *Bott,* 239. 1 *Nolan's Poor Laws,* 160, 216.

Salaries.

179. Salaries *are not such a species of property as can be rated to the relief of the poor, as personal estate within the parish. Rex v. Shalfleet Sherringham's Case, H.* 7. *Geo.* 3. 4. *Burrow's Reports,* 2011. 1 *Bott,* 138. 1 *Nolan's Poor Laws,* 165. *Rex v. White and others, T.* 32 *Geo.* 3. 4 *Term Reports,* 771. 1 *Bott,* 202.

Fees of an attorney.

180. Nor are the profits and fees of an attorney.

Rex v. Startifant, M. 37 *Geo.* 3. 7 *Term Reports*, 60. 1 *Bott*, 217. 1 *Nolan's Poor Laws*, 165.

Tithes.

181. A vicar is chargeable in respect of his tithes. *Rex v. Turner, H.* 4 *Geo.* 1. 1 *Strange's Reports*, 77. 1 *Bott*, 126. 1 *Nolan's Poor Laws*, 145, 175. Vicarial tithes rateable.

182. A parson who lets to each parishioner his own tithes is properly the occupier, and ought to be rated. 16 *Viner's Abridgment*, 427. Parson letting his tithes.

183. The person who is the farmer of tithes, who lets the tithes again, is *primâ facie* liable to be rated, unless he can throw the charge upon another. *Rex v. Lambeth, T.* 8 *Geo.* 1. 1 *Strange's Reports*, 525. 1 *Bott*, 127. 1 *Nolan's Poor Laws*, 175. *S. C.* 8 *Modern Reports*, 61. Farmer of tithes

184. A person entitled to the tithe of all fish caught in the parish is rateable. *Rex v. T. Carlyon, Clerk, and another, T.* 29 *Geo.* 3. 3 *Term Reports*, 385. 1 *Bott*, 186. 1 *Nolan's Poor Laws*, 148, 167, 211. Tithe of fish.

185. Oblations and other offerings *are rateable*, *per Lord Kenyon. See Rex v. Carlyon* (*last placita*). Oblations and offerings.

Manerial Profits.

186. The rents and casual profits of a manor are *not rateable* to the poor. *Rex v. Vanduvall, E.* 33 *Geo.* 3. 2 *Burrow's Reports*, 991. 1 *Bott*, 131. 1 *Nolan's Poor Laws*, 88, 89, 204. *See Rex v. Alberbury, post.* Rents and casual profits of a manor.

187. Iron mines are *not rateable. Rex v. Cunningham and others, M.* 45 *Geo.* 3. 5 *East*, 478. 1 *Bott*, 235. 1 *Nolan's Poor Laws*, 147. Iron mines.

188. Lead mines are *not rateable. Governor and Company of smelting down Lead v. Richardson and others, M.* 3 *Geo.* 3. 3 *Burrow's Reports*, 1341. 1 *Blackstone's Reports*, 389. 1 *Bott*, 137. 1 *Nolan's Poor Laws*, 143. Lead mines.

189. A lessee of a lead mine under the crown, with *lot* and *cope, is rateable* in respect to the *lot* and *cope. Rowls v. Gell, E.* 16 *Geo.* 3. 2 *Cowper's Reports*, Lessee of lead mine, with lot and cope.

451. 1 *Bott*, 149. 1 *Nolan's Poor Laws*, 90, 93, 148.

Lessee of coal mine.

190. The lessee of a coal mine *is rateable*, although he derives *no profit* from the mine. *Rex v. Parrott and others*, E. 34 *Geo.* 3. 5 *Term Reports*, 593. 1 *Bott*, 209. 1 *Nolan's Poor Laws*, 183.

Coal mine exhausted.

191. But a coal mine ceasing to be productive *is not rateable*. *Rex v. Bedworth*, E. 47 *Geo.* 3. 8 *East*, 887. 1 *Nolan's Poor Laws*, 184. *Rex v. Bedworth*, 12 *East*, 330. *Williams and Jones*, 12 *East*, 346.

Toll tin and farm tin.

192. *Toll tin* and *farm tin*, which toll tin is one-15th part of all tin gotten, and farm tin is one-12th part after the one-15th part is deducted, for *toll* of all *tin* gotten, according to the laws and customs of the *Stannaries* of *Cornwall, are rateable*. *Rex v. St. Agnes*, M. 30 *Geo.* 3. 3 *Term Reports*, 480. 1 *Bott*, 288. 1 *Nolan's Poor Laws*, 91, 92.

Landlords not resident leasing lead mines.

193. Landlords not resident within the parish, having leased lead mines and other minerals, with liberty to the tenants to dig and search for pits, &c. receiving a certain annual rent, and also certain proportions of the ore which should be raised, are *not assessable* to the poor's rate for such certain rent on ore being raised, whatever the question might be as to the proportion of ore reserved, when in fact any should be raised. *Rex v. the Bishop of Rochester and others, Trustees, &c.* E. 50 *Geo.* 3. 12 *East*, 353. 1 *Nolan's Poor Laws*, 94.

Lessees under lord of the manor.

194. Lessees under the lord of the manor of *lot* and *free* share of all calamine raised within the manor, *are rateable* as *occupiers* of land in the parish where the manor is, although none of the lessees reside in the parish. *Rex v. Baptist Mill Company*. T. 58 *Geo.* 3. 1 *Maule and Selwyn's Reports*, 612. *Bott, continued to* 1814, 101. 1 *Nolan's Poor Laws*, 80, 81, 92, 93.

Owner of soil of tin mines.

195. Where the owner of the soil, by indenture, granted to certain adventurers full and free liberty to dig, mine, and search for tin, tin ore, &c. and the same to take and convert to their own use, subject to a certain reservation, and to make such adits, shafts, &c. as they should think necessary, paying to

the owner *one-eighth share of all tin, tin ore, &c.* the same having been first spalled, picked, or otherwise made merchantable and *fit to be smelted.* (*See Rex v. Earl of Pomfret and others, post.*) And the indenture containing a power either for payment of ore, or the amount thereof in money, which had been acted upon, and the owner had received it in money, it was held that for this his 8th share he was liable to be rated *as an occupier of land,* the reservation operating as an exception out of the domain and not being in the nature of a rent. *Rex v. the Inhabitants of St. Anstell, E.* 3 *Geo.* 4. 5 *Barnewall and Alderson's Reports,* 693. 1 *Nolan's Poor Laws,* 98, 134.

196. Portion of lead ore (*when smelted*) reserved by lease to the owner of the mine, being in the nature of a rent, is *not rateable. See last case, Rex v. Earl Pomfret and others, E.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 139. 1 *Nolan's Poor Laws,* 130. Lead ore when smelted reserved as rent.

197. Lime works *are rateable* in the hands of the occupier. *Rex v. Alberbury, T.* 41 *Geo.* 3. 1 *East,* 584. 1 *Bott,* 223. 1 *Nolan's Poor Laws,* 149. Lime works.

198. So is a slate work. *Rex v. Woodland,* 2 *East,* 164. 1 *Bott,* 228. 1 *Nolan's Poor Laws,* 149. Slate work.

199. So also the clay pit of a potter. *Rex v. Brown, T.* 47 *Geo.* 3. 8 *East,* 528. 1 *Nolan's Poor Laws,* 149. Clay pit.

Woods.

200. Saleable underwoods are at all times *liable* to be rated whenever rates are made. *Rex v. Mirfield, T.* 48 *Geo.* 3. 10 *East,* 219. *Bott, continued to* 1814, 68. 1 *Nolan's Poor Laws,* 152, 158, 230. Saleable underwoods.

201. Firs and larch planted with oaks, for the purpose of shelter to the oaks, and cut from time to time as the oaks grow up; but when once cut, not growing again, and some of them yielding a profit by sale, *are not saleable underwoods* within the statute of 43 *Eliz. Rex v. Inhabitants of Ferrybridge, H.* 3 *and* 4 *Geo.* 4. 1 *Barnewall and Cresswell's Reports,* 376. Firs and larch planted with oak for shelter.

Commons.

Corporate bodies holding common lands in fee.

202. Members of a corporate body which hold common lands in fee, exercising their right of common, *are rateable. Rex v. Watson, M.* 45 *Geo.* 3. 5 *East,* 480. 1 *Bott,* 237. 1 *Nolan's Poor Laws,* 172.

Aftermath.

203. Aftermath let out in pastures *is rateable. Rex v. the Trustees of the Burgesses, &c. of Tewkesbury, M.* 51 *Geo.* 3. 12 *East,* 155. *Bott, continued to* 1814, 86. 1 *Nolan's Poor Laws,* 173.

A corporation seised in fee of pasture lands.

204. A corporation, consisting of a mayor, alderman, and twenty-four capital burgesses, seised in fee of certain pasture lands, appointing a ranger to keep the keys of the gates, clean the ditches, preserve the fences, and impound cattle trespassing, making regulations at a court held annually concerning the pastures, and the number of cattle each burgess should turn on, and the sum to be paid in respect thereof, which sum, after deducting the expenses of the land, was distributed among the burgesses who did not turn on; such corporation *is liable* to be rated to the poor as the *beneficial occupiers* of the pastures. *Rex v. the Mayor, Aldermen, and Burgesses of Sudbury, H.* 3 *and* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports,* 389. 1 *Nolan's Poor Laws,* 173, 174.

Right of way.

205. A right of way, or way leave (being merely an easement), *is not rateable. Rex v. Joliffe, M.* 28 *Geo.* 3. 2 *Term Reports,* 90. 1 *Bott,* 181. 1 *Nolan's Poor Laws,* 86.

Waggon way.

206. But a waggon way, with enclosure over a portion of the ground, *is rateable. Rex v. Bell and others, E.* 38 *Geo.* 3. 7 *Term Reports,* 598. 1 *Bott,* 218. 1 *Nolan's Poor Laws,* 81. 86. 128. 133.

Farmer letting his dairy of cows.

207. If a farmer lets his dairy of cows, *he* may be rated for the profits as part of the profits of the farm; or *they* may be rated *in the hands* of the dairyman, provided the farmer is not rated for the profit he derives from letting them to hire. *Rex v. Brown, T.*

47 *Geo.* 3. 8 *East*, 528. *Bott, continued to* 1814, 52. 1 *Nolan's Poor Laws*, 205.

Extra Profits from Land.

Profits of a mineral spring.

208. The profits of a mineral spring are part of the produce of the land, and therefore the occupier *is rateable* for the whole as one estate. *Rex v. Miller, T.* 17 *Geo.* 3. 2 *Cowper's Reports*, 619. 1 *Bott*, 155. 1 *Nolan's Poor Laws*, 77.

Land improved by a spring of water.

209. Land improved in value by a spring of water *is liable* to be rated at the aggregate annual value of the land and spring together. *Rex v. the Governor and Company of the New River. E.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports*, 503. *Bott, continued to* 1814, 96. 1 *Nolan's Poor Laws*, 77.

Water company rateable to the poor in the parish where the main pipes lay.

210. Where an act of parliament empowered a water company to lay under ground through the streets of a town main pipes for the conveyance of water, and the inhabitants with the company's consent to lay pipes communicating with the main pipes to their houses, paying to the company a rate for the privilege, held that the company were *rateable* to the poor *in the parish where the main pipes lay*, in respect of those pipes and the rates paid thereon. *Rex v. Rochdale Waterwork Company, T.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports*, 634. *Bott, continued to* 1814, 106. 1 *Nolan's Poor Laws*, 80. 210.

Gas-light and coke company not rateable to the amount of profit of trade, but for the amount the premises would let for.

211. A gas-light and coke company having power under an act of parliament to supply a town with gas, and for that purpose to lay down pipes for the conveyance of gas from the manufactory to the houses of the consumers, under the act, they purchased lands and buildings, and erected retorts, &c. necessary for the manufactory of gas and coke, and fixed in the streets *trunks*, pipes, &c. for the conveyance of gas. The company derived a considerable profit from the manufacture and sale of coke and gas. The stock in trade and profit of other manufactories in the *town* where not rated to the poor. Held that the company were *not rateable* to the

amount of the profit of their trade, but *for a sum* equal in amount to that for which *the premises would let to other persons willing to carry on the same business. Rex v. the Birmingham Gas and Coke Company. E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports,* 506.

House containing a steelyard.

212. The profits of a house containing the *steelyard* of a weighing machine *are rateable* as arising from the house itself, the machine being annexed to the freehold. *Rex v. St. Nicholas, Gloucester,* 23 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 262. 1 *Bott,* 163. 1 *Nolan's Poor Laws,* 81.

Billiard table.

213. So if a billiard table stands in a house, and the house lets at a higher rate in respect of the billiard table. *Ibid.*

A carding machine.

214. The profits of a house having a carding machine *are rateable.* *Rex v. Hogg,* 27 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 266. 1 *Term Reports,* 721. 1 *Bott,* 177. 1 *Nolan's Poor Laws,* 83.

A building used as a canteen at an annual sum.

215. An annual sum paid for the privilege of using a building as a *canteen,* considered part of the rent, and *rateable* as such. *Rex v. Bradford, T.* 55 *Geo.* 3. 4 *Maule and Selwyn's Reports,* 317.

Docks, Canals, Tolls, &c.

Docks.

216. Lands converted into a dock *are rateable. Rex v. the Dock Company of Hull, E.* 26 *Geo.* 3. 1 *Term Reports,* 219. 1 *Bott,* 171. 1 *Nolan's Poor Laws,* 79.

Docks rateable for tonnage duties.

217. A dock company are *rateable* for tonnage duties received, although the expenditure in repairs during the period for which the rate is made *exceed* the amount of duties received. *Rex v. the Hull Dock Company, M.* 57 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 394.

Canal rates exempt.

218. Where canal rates, &c. are exempted from all taxes and assessments, the *land* occupied by the canal is also exempt from poor's rate. *Rex v. Cal-*

der and Hebble Navigation Company, H. 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 263.

219. Lands and buildings of a canal company *are rateable* at the same value as the adjacent lands, &c. and not according to the improved value. *Rex v. Grand Junction Canal Company, H.* 38 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 289. Lands, &c. of canal company.

220. Where tolls are paid for passing a certain barge way, the *way* is rateable for the profits. *Rex v. the Mayor, &c. of London, M.* 31 *Geo.* 3. 4 *Term Reports,* 21. 1 *Bott,* 196. 1 *Nolan's Poor Laws,* 79. 87. 179. 212. Tolls of barge way.

221. The lessee of "all those *fishings of the halves and halven-doles with the appurtenances to the halves due and accustomed," is rateable* as a beneficial occupier of land. *Rex v. Ellis, T.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports,* 652. *Bott, continued to* 1814, 107. 1 *Nolan's Poor Laws,* 79. 86. Lessee of fishings.

222. The lessee of market tolls in gross, not incident to the soil, *is not rateable* to the poor in respect of his occupancy. *Rex v. Bell, T.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 221. Lessee of market tolls.

223. A poor rate must show upon the face of it in respect of what property the assessment is made upon each individual. *Rex v. the Undertakers and Calder Navigation, E.* 5 *Geo.* 4. 2 *Barnewall and Cresswell's Reports,* 713. What the poor rate must show on the face of it.

Where Property is to be rated.

224. Tolls not rateable *per se,* but *contra* when mixed with a rate upon other property, which, as having substance and locality within the parish, is properly rateable there. *Rex v. A. Macdonald and others, E.* 50. *Geo.* 3. 12 *East,* 324. *Bott, continued to* 1814, 75. 1 *Nolan's Poor Laws,* 79, 80. 88. 129. Tolls when mixed with other property.

225. Tolls of a light-house, where vessels do *not* come within the parish, and therefore not due there, *are not* rateable there, not being locally situated in Tolls of a light-house.

the parish. *Rex v. Rebowe, M.* 12 *Geo.* 3. 1 *Bott,* 142. 1 *Nolan's Poor Laws,* 86. 99. 215.

Light-house. 226. But a light-house *is rateable* for occupancy. *Rex v. Tynemouth, H.* 50 *Geo.* 3. 12 *East,* 46. *Bott, continued to* 1814, 74. 1 *Nolan's Poor Laws,* 100. 177. 215. *See Douglas's Reports,* 118, *n.* 1 *Bott,* 143.

Tolls of a corporation. 227. Tolls taken by a corporation *are rateable.* 3 *Keble's Reports,* 540.

Tolls for passing a sluice. 228. Tolls taken on a river for passing a sluice *are rateable* where they become due, *not where they are received. Rex v. Cardington, E.* 17 *Geo.* 3. 581. 1 *Bott,* 154. 1 *Nolan's Poor Laws,* 87. 101. 207. 215.

Canal company. 229. A canal company are liable to be rated "for their basins, towing paths, canal and locks," as being local visible property, and the *tolls and duties arising therefrom,* as resulting from that *local* and *visible* property. *Rex v. the Proprietors of the Stafford and Worcester Canal Navigation, M.* 40 *Geo.* 3. 8 *Term Reports,* 340. 1 *Bott,* 89. 1 *Nolan's Poor Laws,* 80. 88. 111.

Lands, &c. 230. Lands and tenements are to be assessed where they lie. *Dalton's Justice, Ed. of* 1746.

Waste and marsh lands. 231. When waste lands, which were formerly fens and marsh, are drained and improved, and the parish to which they belong *cannot* be ascertained, the *occupier* thereof, or of the houses built, tenements, tithes arising therefrom, mines therein, and saleable underwoods growing thereon, *are to be rated to the parish that lies nearest.* 17 *Geo.* 2. *c.* 37.

In case of dispute. 232. If any dispute arises as to what parish or place they ought to be rated to, the justices in *quarter sessions* are to cause them to be assessed as they think meet, and their determination and assessment is final and conclusive. *Ibid.*

Artificial profits of lands and profits of waterworks. 233. Artificial profits of land *are rateable* where the lands lie; so the profits of waterworks arising from the sale of water conveyed from the engine to distant parts, *are rateable* in the parish where the engine stands. *Atkins v. Davis,* 13 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 315. 1 *Nolan's Poor Laws,* 73. 102. 207.

234. A corporation erecting reservoirs of water, and supplying the parishes of A. B. C. &c. with water, *are rateable* to A. for so much of the profit from their reservoirs as they made in A., but not for the entire profits made in the three parishes. *Rex v. Mayor, &c. of Bath, M.* 52 *Geo.* 3. 14 *East,* 609. *Bott continued to* 1814, 91. Supplying parishes with water from a reservoir in one of them.

235. Ships *are rateable* at the parish where the port is to which they belong *as their home. Rex v. White and others, T.* 32 *Geo.* 3. 4 *Term Reports,* 771. 1 *Bott,* 89. 1 *Nolan's Poor Laws,* 84—165. Ships rateable at their home.

236. Ships are liable to be rated in the parish where they are *locally* and *visibly domiciled,* although *out* of it at the time of making the rate; but not where they have never been within the parish. *Rex v. Shepherd and another, M.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 109. Ships rateable where they are domiciled.

237. A packet boat is rateable to the parish where it belongs. *Rex v. Jones and others, T.* 47 *Geo.* 3. 8 *East,* 491. 1 *Nolan's Poor Laws,* 166. 217. Packet boat.

238. The lessee and occupier of an ancient and exclusive ferry, not being *inhabitant resiant* within the township in which one of the *termini* of the ferry is situated, *is not liable* to be rated there for any share of the tolls of such ferry. *Rex v. Nicholson, E.* 50 *Geo.* 3. 12 *East,* 330. 1 *Nolan's Poor Laws,* 85. 88. 117. 212. An ancient ferry.

239. The owner of a ferry residing in a different parish, but taking the profits of the ferry on the spot by his servants and agents, *is not rateable* for such tolls in the parish where they were collected, and where one of the *termini* of the ferry was situated, and on which shore the ferry boats were secured by means of a post in the ground, the soil itself at the landing being a common highway. *Williams v. Jones and another, E.* 50 *Geo.* 3. 12 *East,* 346. *Bott continued to* 1814, 83. 1 *Nolan's Poor Laws,* 124. Owner of a ferry residing in a different parish.

240. Where a river navigation extends through several parishes, and certain tonnage dues become payable in respect of goods carried along the line of River navigation extending through several parishes.

the navigation, and landed at a wharf locally situated within the parish of B., held that a rate on the proprietor of those dues for their whole amount in the parish of B. stated to be for river tonnage, could not be considered as a rate upon that part of the river locally situated in the parish of B., but as a rate upon those parts of the river situate as well within as without the parish, and that it could not therefore be supported; and it was also held that the statute of 41 *Geo.* 3. (*U. K.*) *c.* 23. *s.* 1. did not give the court of K. B. the power to amend the rate. *Rex v. Milton, M.* 60 *Geo.* 3. 3 *Barnewall and Alderson's Reports,* 112.

Canal company.

241. A canal company *are rateable* to the relief of the poor in each and every parish through which their canal passes, as occupiers of land covered with water. *Rex v. the Company of Proprietors of the Navigation from the Trent to the Mersey, E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports,* 545. *Rex v. Aire and Calder Navigation,* 2 *Term Reports,* 660. *Rex v. the Corporation of Bath,* 14 *East,* 609, *and other cases, ante.*

Proprietors of inland navigation.

242. The proprietors of an inland navigation *are rateable* to the poor in every parish through which the navigation passes, as occupiers of the land situate in each parish used for the purpose of the navigation. *E.* 4 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 546.

Navigation extending through several parishes.

243. The proprietors of a navigation extending through several parishes are to be rated in an intermediate parish, not in respect of the riverage becoming due in that parish for *goods* landed there, but in respect of the profits of the *land* used for the navigation situate within the parish. *Rex v. the Earl of Portmore and another,* 2 *Barnewall and Creswell's Reports,* 551.

The Proportion in which the Rate shall be made.

The court will not presume an unequal rate.

244. The court will not presume a rate to be unequal, although houses and lands are not rated alike;

there may be reason to make a difference between lands and houses, for there are several charges incident to houses which do not fall upon lands to *lessen* their yearly value. *Rex v. Brograve, M.* 10 *Geo.* 3. 4 *Burrow's Reports,* 2491. 1 *Bott,* 112. 1 *Nolan's Poor Laws,* 221. 237.

Nor will they presume it equal.

245. Nor will the court presume it *equal,* if it is *manifestly unequal. Rex v. Butler and another, E.* 20 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 93. 1 *Bott,* 114. 1 *Nolan's Poor Laws,* 238.

The court can lay down no rule for rating.

246. The court of K. B. can lay down no general rule for the proportion to be observed in rating; for the proportion must depend on *local* circumstances. *Rex v. Sandwich and Swannage, H.* 21 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 105. 1 *Bott,* 165. 1 *Nolan's Poor Laws,* 236. 238.

The rate must be according to the improved value.

247. A person must be rated according to the improved value of his property. *Rex v. Mast. H.* 35 *Geo.* 3. 6 *Term Reports,* 154. 1 *Bott,* 211. 1 *Nolan's Poor Laws,* 200. 224. 225.

Rent no criterion of the value.

248. Rent is *not* a criterion of the value, but the rate must be regulated by the *improved* value. *Rex v. Skingle, E.* 38 *Geo.* 3. 7 *Term Reports,* 549. 1 *Bott,* 218. 1 *Nolan's Poor Laws,* 225.

Nor is the land tax.

249. Nor is the *land tax* any rule for the poor's rate. *Rex v. Clerkenwell, H.* 2 *Geo.* 1. *Foley's Poor Laws,* 12. 1 *Bott,* 11. 1 *Nolan's Poor Laws,* 220.

Persons removing out of parishes to pay rate in proportion to the occupancy.

250. "Where any person shall come into or occupy any house, land, tenement, or hereditament, or other premises, out of or from which any other person assessed shall be removed, or which at the time of making the rate was empty or unoccupied, then every person so removing from, and every person so coming into or occupying the same, shall be liable to pay to such rate in proportion to the time that such person occupied the same respectively, as if such person so removing had been originally rated and assessed in such rate; which proportion, in case of dispute, shall be ascertained by *any two* justices of the peace." 17 *Geo.* 2. *c.* 98. *s.* 2.

The Form of the Poor's Rate.

Title of poor rate.

251. An assessment for the necessary relief of the poor, and for the other purposes in the several acts of parliament mentioned relating to the poor for the parish of ——, in the county of ——, made and assessed the —— day of ——, being the first rate at —— in the pound for the present year.

Form of the rate.

Names of Occupiers.	Description of the Premises.	Annual Value.	Sums assessed — in the Pound.
A. B.	A house and Garden,	10 0 0	0 5 0
C. D.	A farm house, lands, & buildings,	100 0 0	5 0 0
E. F.	A warehouse,	10 0 0	0 2 6
The Gov. and Comp. of New River.	20 acres of land covered with water,	30 0 0	0 15 0

Assessors.

Assessors. } —— } Churchwardens.
—— }

Assessors. } —— } Overseers.
—— }
—— }
—— }

Consent of two justices required.

252. The rate must be made *with the consent* of two justices, one whereof is of the quorum, dwelling *in* or *near* the parish or division 43 *Eliz. c.* 2. *s.* 1.

County of } *We, two of his majesty's justices of the peace in and for the said county, one* } *to wit.* } *whereof is of the quorum, do consent unto and allow of this assessment. Witness our hands the day of* 182 .

253. This consent and allowance is by *two* justices *out of sessions*, and should be written at the end of the assessment. It is merely a ministerial act. *Rex v. Uttoxeter*, 1 *Nolan's Poor Laws*, 63. *Rex v. Kynaston*, *E.* 5 *Geo.* 1. 1 *Bott*, 77. 1 *East*, 117. 2 *Bott*, 680. 1 *Nolan*, 63. Consent and allowance merely a ministerial act.

254. If the justices refuse to sign and allow the rate, the court of K. B. will grant a *mandamus* to compel them. *Rex v. the Justices of Dorchester*, *M.* 7 *Geo.* 1. 1 *Strange's Reports*, 393. 1 *Bott*, 77. 1 *Nolan's Poor Laws*, 63. Justices cannot refuse.

255. Officers of corporate towns have the same authority *within their jurisdictions* as well out of as at sessions, with justices of the peace; and every alderman of *London* within his ward has the like authority. 43 *Eliz. c.* 2. *s.* 8. Officers of towns corporate.

256. A parish extending into more counties than one, or part lying within the liberties of a place corporate and part in another, the justices of the peace of the county and the head officers of such corporate place shall intermeddle only within their several liberties and jurisdictions concerning the nomination of overseers, the consent to binding apprentices, giving warrants to levy taxation unpaid, the taking account of the churchwardens and overseers, the committing to prison such as refuse to account, or deny paying the arrears due on their accounts; yet the said churchwardens and overseers, or the most part of them, of the said parishes that do extend into such several limits and jurisdictions, shall, without dividing themselves, duly execute their office in all places within the said parish in all things to them belonging. 43 *Eliz. c.* 2. *s.* 9. Parish extending into more counties than one, &c.

257. After a rate has been allowed by the justices, it should not be altered by adding additional names, although with the justices' approbation. *Rex v. Barnett*, 2 *Douglas's Reports*, 465. Rate not to be altered after allowance.

258. A rate made for a borough cannot be made

by the overseers appointed by the justice of a county, nor allowed by such justices. *Rex v. Polly, T.* 27 *and* 28 *Geo.* 2. 1 *Bott*, 78. 1 *Nolan's Poor Laws*, 64.

Separation of towns from parishes.

259. Separation of towns corporate or franchises from parishes where they are situated, with a distinct and separate appointment of overseers, shall be lawful in the same manner as if the separation or division had taken place under the authority of 43 *Eliz. c.* 2. But with respect to the poor, such separation must not have commenced within 60 years. 59 *Geo.* 3. *c.* 95.

Attachment will be granted for evading signing a poor rate.

260. An attachment for contempt will be granted against justices of the peace who evade the signing of a poor's rate in obedience to a *mandamus*, by keeping out of the way so as not to be served with the writ. *Rex v. Edwards and Symmonds, T.* 7 *Geo.* 3. 1 *Blackstone's Reports*, 637. 1 *Bott*, 78. 1 *Nolan's Poor Laws*, 63.

Publication of the Poor's Rate.

Publication of the rate.

261. Churchwardens and overseers shall cause public notice to be given in the church of any rate for the relief of the poor allowed by the justices the *next Sunday* after the allowance; and no rate shall be sufficient so as to collect the same, unless such notice shall have been given. 17 *Geo.* 2. *c.* 3. *s.* 1.

If not published, the rate is a nullity.

262. If a poor's rate is not published in the church on the *next Sunday* after allowance, it is a *nullity*, and payment under it *cannot* be enforced, although not appealed against. It is a radical defect in the rate itself, which nothing can cure. *Rex v. Newcomb and another, T.* 31. *Geo.* 3. 4 *Term Reports*, 368. 1 *Bott*, 78. 1 *Nolan's Poor Laws*, 64. 256.

263. The poor's rate may be inspected by any inhabitant at seasonable times, paying *one shilling;* and the churchwardens and overseers shall, upon demand, forthwith give copies of the same, or any part thereof, to any inhabitant, paying at the rate of sixpence for every twenty-four names; and the

churchwardens and overseers refusing such inspection, or refusing or neglecting to give such copies, shall for every offence forfeit and pay to the party aggrieved 20*l.* to be sued for and recovered by action of debt, bill, plaint, or information. 17 *Geo.* 2. *c.* 3. *s.* 2. 3. *Spenceby v. Robinson, H.* 1825. *MSS. of Barnewall and Creswell's Reports.*

In case of Poverty or Inability to pay Poor's Rate.

Justices may excuse poor persons from payment of rates.

264. Two justices, in petty sessions assembled, on application by any person rated to *any parish rates or cesses*, to be discharged therefrom on account of his or her *inability through poverty* to pay, they may, with *the consent* of the churchwardens and overseers of the poor, order such poor persons to be *excused* from the payment of the rate or cess, and strike out his or her name from the assessment, and the sum at which such person was rated shall *not* afterwards be collected. 54 *Geo.* 3. *c.* 170. *s.* 11.

Appeal.

Appeal to quarter sessions on giving reasonable notice.

265. If any person shall be aggrieved by any rate or assessment made for the relief of the poor, or shall have any material objection to any person being put in or left out of such rate, &c. or to the sum charged on any person therein, or by any neglect or thing done or omitted by the churchwardens and overseers or justices, he may, giving reasonable notice to the churchwardens and overseers, appeal to the next sessions, and the justices there assembled shall receive the appeal, and finally determine the same; but if reasonable notice is not given, then they may adjourn the appeal to the next quarter sessions. 43 *Eliz. c.* 2. *s.* 6. 17 *Geo.* 2. *c.* 38. *s.* 4.

266. In corporations and franchises not having *four* justices, the appeal *may* be to the next general or quarter sessions. *Ibid. s.* 5.

267. *But extended to all corporations, &c. not having more than six justices.* 1 *Geo.* 4. *c.* 36.

268. The justices may amend the rates on appeals only as shall be necessary for giving relief without altering the rates, &c. with respect to other persons mentioned therein; but if on appeal from the whole rate it shall be found necessary to quash it, then they may order the churchwardens and overseers to make a new rate. 17 *Geo.* 2. *c.* 38. *s.* 6.

Court may award costs.

269. The court may award reasonable costs to the party in whose favour the appeal shall be determined, as in cases of settlement by the statute 8 and 9 *W.* 3. *c.* 30. *Ibid. s.* 4.

But not unless the appeal is entered and determined.

270. But the sessions cannot award costs unless the appeal is entered and determined. *Rex v. the Justices of Essex, E.* 40 *Geo.* 3. 8 *Term Reports*, 583. 2 *Bott*, 757. 2 *Nolan's Poor Laws*, 475, 3*d edit.*

Rate may be amended or quashed.

271. On an appeal from a poor's rate the quarter sessions may *amend* it without quashing it, or if necessary may quash the rate, but the sum assessed shall notwithstanding be levied. 41 *Geo.* 3 (*U. K.*) *c.* 23. *s.* 1.

The court may order sum rated not to be paid.

272. The quarter sessions having ordered a rate to be quashed, may order the sum charged on any person not to be paid, and stop proceedings for the recovery thereof. *Ibid. s.* 3.

Notices of appeal to be in writing.

273. All notices of appeal to be given to the churchwardens and overseers of the poor in writing, signed by the person appealing, or his attorney on his behalf, and such notices must be left at the places of abode of the churchwardens and overseers, or *any two* of them; and the particular cause or grounds of appeal must be specified in the notice; and upon hearing the appeal the session shall not inquire into any other cause or ground of appeal than as specified in the notice. *Ibid. s.* 4. (*See s.* 6.)

If parties consent no notice necessary.

274. Appeals may be decided by the sessions, if the parties consent, although no notice has been given. *Ibid. s.* 5.

Notice to be given to all persons interested.

275. Persons appealing shall give notice not only to the churchwardens and overseers, or any two of them, but also to the persons interested in the event of the appeal. *Ibid. s.* 6.

276. The rate shall be recovered as altered by the sessions. *Ibid. s.* 7. Rate, how to be recovered.

277. And in case the name of any person shall be struck out of the rate, or any sum lowered, the sessions shall order the money which ought not to have been recovered to be repaid. *Ibid. s.* 8. In case the name of any person is struck out, or the sum lowered.

278. Where corporation justices consist of a greater number than *four*, an appeal lies to them at sessions against a poor's rate, although there are less than *four* who are devoid of interest in the question. *Rex v. the Justices of Essex, M.* 57 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 513. *Rex v. the Justices of Carmarthen, H.* 1 *and* 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports,* 291. 2 *Nolan's Poor Laws,* 493. Corporation justices.

279. Appeals are allowed to the county *general* or *quarter* sessions from corporations and franchises not having more than *six* justices, in the same manner as if they had not *four* justices. 1 *Geo.* 4. *c.* 36. Appeals from corporations not having more than six justices.

280. The clause in the 43 of *Eliz. c.* 2. gives the justices and sessions of boroughs power over appeals against rates made for the places within the borough, exclusive of the county. *Rex v. St. Mary Taunton, E.* 12 *Geo.* 1. 1 *Bott,* 274. Power of justices of boroughs over appeals.

281. The appeal must be to the *next* sessions after the allowance of the rate. *Rex v. Atkins, M.* 31 *Geo.* 3. 4 *Term Reports,* 12. 1 *Bott,* 287. 2 *Nolan's Poor Laws,* 397, 3*d edit.* Appeal must be to the next sessions.

282. By the *next* sessions it is meant the next sessions to which the party can possibly appeal after being aggrieved. *Rex v. Coode and others, T.* 24 *Geo.* 3. 1 *Bott,* 281. 2 *Nolan's Poor Laws,* 397. 402, 3*d edit. Rex v. the Justices of the East Riding of Yorkshire, E.* 19 *Geo.* 3. 2 *Bott,* 727. 2 *Nolan's Poor Laws,* 409. Meaning of *next* sessions.

283. One day only intervening between the publication of the rate and the next immediate quarter sessions is not sufficient for an effectual notice of appeal. *Rex v. the Justices of Sussex, H.* 52 *Geo.* 3. 15 *East,* 206. 1 *Bott, continued to* 1814, 1. 2 *Nolan's Poor Laws,* 401. 439, 3*d edit.* Only one day intervening between publication and notice of appeal.

Next sessions, meaning of.

284. *Next* sessions means the next practicable general quarter sessions *after the allowance* of the rate at which an effectual appeal can be lodged. *Ibid. and Rex v. the Justices of London*, 15 *East*, 632. *Bott, continued to* 1814, 2. *And see Rex v. Atkins, above.*

Several may join in one notice.

285. *Several* persons having a joint grievance may join in giving *one* notice to the parish officers. *Rex v. White*, 4 *Term Reports*, 771.

London or Middlesex.

286. An appeal against a poor's rate in *London* or *Middlesex* must be made as in other counties to the *next* (*that is, next practicable*) general *quarter* sessions; though the statute 17 *Geo.* 2. *c.* 38. *s.* 4. gives the appeal to the next *general* or *quarter* sessions. In *London* and *Middlesex* there are four *general* and four *general quarter* sessions. *Rex v. the Justices of London*, 15 *East*, 632. *Bott, continued to* 1814, 2.

Appeal to an adjourned sessions.

287. An appeal may be to an adjourned sessions. *Rex v. the Justices of Sussex, H.* 37 *Geo.* 3. 7 *Term Reports*, 107. 2 *Bott*, 728. *Rex v. Monks, Risborough* (2 *Bott*, 723), *and Rex v. Hinderclave* (2 *Bott*, 723).

Notice of the appeal.

288. Where the ground of appeal against the poor's rate is, that certain persons are omitted in the rate, the *names* of those who are omitted should be set out in the notice of appeal. *Rex v. the Justices of Berkshire, H.* 27 *Geo.* 2. 1 *Bott*, 274. 2 *Nolan's Poor Laws*, 424, 3*d edit.* *Rex v. Justices of Sussex, H.* 52 *Geo.* 3. 15 *East*, 206. *Bott, continued to* 1814, 1. 2 *Nolan's Poor Laws*, 401. 439, 3*d edit.*

Which party shall begin.

289. If the appellant alleges he has no rateable property in the parish, it lies with the respondents to *show* that he has; or where the appellant objects to his being rated at all, the respondents *are* to begin; but where the appellant objects to the rate altogether, then *he* must begin. *Rex v. Newberry, M.* 32 *Geo.* 3. 4 *Term Reports*, 475. 1 *Bott*, 286. 2 *Nolan's Poor Laws*, 440, 3*d edit.*

If appellant disputes the quantum of the rate at the sessions.

290. If the appellant disputes before the sessions the *quantum* of the rate, it is not sufficient for the respondents to show that the appellant is in posses-

sion of *some* rateable property within the parish, but they must show some probable ground for the *amount* at which they charge the party in the rate. *Rex v. Topham, T.* 50 *Geo.* 3. 12 *East*, 546. *Bott, continued to* 1814, 63. 1 *Nolan's Poor Laws*, 199.

Parishioner may be a competent witness.

291. A parishioner who *is liable* to be rated, but who is *not* in fact rated, is a competent witness to prove the rateability of the appellant. *Rex v. Prosser and others, M.* 31 *Geo.* 3. 4 *Term Reports*, 17. 1 *Bott*, 287. 2 *Nolan's Poor Laws*, 508, 3*d edit.*

Inhabitants are competent witnesses.

292. "No inhabitant or person rated or liable to be rated to rates or cesses of any district, parish, &c., or executing or holding any office, shall be deemed an *incompetent* witness for or against such district, parish, &c." 54 *Geo.* 3. *c.* 170. *s.* 9. *See Meredith v. Gilpin and others, M.* 1818. 6 *Price's Exchequer Reports*, 146.

Rates to be entered in a book after appeal.

293. "True and just copies of all rates and assessments for the relief of the poor to be fairly wrote and entered in a book or books, to be provided by the churchwardens and overseers of the poor of every parish, &c. *within* 14 *days after* all appeals from such rates are determined, and shall attest the same by putting their names thereto, and every such book to be carefully preserved by the churchwardens and overseers in *some public or other place* in every parish, &c. whereto all persons assessed or liable to be assessed *may freely resort*, and shall be delivered from time to time to the succeeding churchwardens and overseers as soon as they enter into office, and shall be produced at the general or quarter sessions when any appeal is to be heard or determined." 17 *Geo.* 2. *c.* 38. *s.* 13.

Distraining for Poor's Rate.

Poor's rate to be levied by distress, &c.

294. The present and subsequent churchwardens and overseers, by warrant from any two justices, may levy poor's rate, and all arrears of any one who refuses to pay according to the assessment, by distress and sale of his goods. 43 *Eliz. c.* 2. *s.* 4.

Not only in the place where the assessment is made, but in any other place in the same county.

295. And not only in the place for which the assessment is made, but in any other place in the same county or precinct; and if sufficient distress cannot be found, on oath thereof made before some justice of any *other* county or precinct (which oath shall be certified under the hand of such justice on the warrant), the goods may be levied in any other county or precinct. And if any person shall be aggrieved by such distress, he may appeal to the next *general* or *quarter* sessions of the peace for the county where the assessment was made. 17 *Geo.* 2. *c.* 38. *s.* 7.

If distress is not found within the parish, &c. may be made in any other parish in any other county.

296. The goods and chattels of any person *neglecting* or *refusing* to pay any rate *for the relief of the poor, church cess,* or *highway cess,* of any district, parish, &c., for the space of *seven* days, the same having been legally demanded, may be distrained not only within such district, parish, &c., but also within any other district, parish, &c., within the same county or jurisdiction; and if sufficient distress cannot be found within the same county, &c., then, upon oath thereof made before any *one* or more justices for *any other county,* &c., in which the goods shall be found, the same may be distrained in such other county, &c., where found, and sold in the same manner as if they had been found within the district, parish, &c., for which the rate had been made or was due. 54 *Geo.* 3. *c.* 170. *s.* 12.

If rate quashed.

297. If a poor's rate is quashed at the sessions, the sums charged are to be levied and taken as payment on account of the *next effective* rate. 41 *Geo.* 3. (*U.K.*) *c.* 23. *s.* 1.

Notice of appeal not to prevent distress.

298. Notice of an appeal against a poor's rate, is not to prevent a distress for a sum *not* greater than that assessed in the *last effective* rate. *Ibid. s.* 2.

If rate ordered to be quashed, sessions may order assessment not to be paid.

299. If the court order any rate or assessment to be quashed, they may order any sum charged on any person, or any part of it, not to be paid, and in that case no proceedings shall be commenced, or being commenced, be carried on, for enforcing the payment of the sum ordered not to be paid. *Ibid. s.* 3.

Order of court on an appeal, &c.

300. And if the court upon hearing an appeal shall order the name of any person to be inserted in the

rate, and that such person shall be rated, or shall order the sum at which any person is rated to be increased, such sums may be recovered in the same manner as if they had been originally inserted. *Ibid. s.* 7. (*see s.* 1. *p.* 88. *pl.* 271. *ante*).

Oath of refusal to pay must be made before a warrant of distress issues.

301. Oath of refusal to pay the rate must be made before the justices previously to distraining for non-payment. The rate cannot be distrained for by a *general* warrant made before the rate, but there ought to be a special warrant on purpose. *Tracey and Talbot, T.* 3 *Ann.* 2 *Salkeld's Reports,* 532. 1 *Bott,* 250. 1 *Nolan's Poor Laws,* 258.

Summons before distress warrant.

302. A summons must precede a warrant of distress for a poor's rate. *Rex v. Benn and Church, H.* 35 *Geo.* 3. 6 *Term Reports,* 108. 1 *Bott,* 261. 1 *Nolan's Poor Laws,* 254. 256.

Servant of an ambassador, not residing in his master's house, but renting another.

303. A servant of an ambassador, not residing in his master's house, but renting and living in another, the goods in such house are liable to be distrained for poor rates, the same not being necessary for the convenience of the ambassador. The privilege of an ambassador extends only to what is necessary for the personal convenience, the dignity and the religion of the ambassador himself. *Novello, v. Toogood, E.* 1823. 1 *Barnewall and Creswell's Reports,* 554.

Distress not to be deemed unlawful for want of form only.

304. Where distress is made for money, justly due, for the relief of the poor, the distress itself shall not be deemed unlawful, nor shall the parties making it be deemed trespassers for want of form in the appointment of the overseers, or in the rate, or in the want of distress. 17 *Geo.* 2. *c.* 38.

Where no sufficient distress found.

305. Where there is not sufficient distress, two justices may commit the defaulters to the common gaol, there to remain without bail or mainprize until payment. 43 *Eliz. c.* 2. *s.* 4.

Arrears to be levied.

306. Arrears of poor rate are to be levied by the succeeding overseers. 17 *Geo.* 2. *c.* 38. *s.* 11.

Persons assessed dying before payment of the rate.

307. The goods of a person, assessed to the poor rate, dying before payment, cannot be distrained in the hands of the executor or administrator. *Stevens v. Evans and others, E.* 1 *Geo.* 3. 2 *Burrow's Reports,* 1152. 1 *Blackstone's Reports,* 284. 1 *Bott,*

254. 1 *Nolan's Poor Laws*, 252. *Wallis v. Hewit, Sittings after H.* 5 *Geo.* 2.

Want of distress for several rates on being quashed, void.

308. Goods distrained for several rates due, one of which had been quashed; it was held that the warrant of distress was void, and that the precise sum due to poor rates should have been demanded previous to the issuing of the warrant of distress. *Harrell v. Wink. T.* 58 *Geo.* 3. 2 *Moore's Reports in the Common Pleas*, 417. 8 *Taunton's Reports*, 389.

Certiorari.

309. A *certiorari* will not lie to remove the poor rate itself, the remedy being to appeal, or by action when a distress is taken. *Rex v. Uttoxeter, E.* 5 *Geo.* 2. 2 *Strange's Reports*, 932. *Cases in the King's Bench concerning Poor*, 317. 1 *Bott.* 292. 2 *Nolan's Poor Laws*, 490, 3*d edit.* *See also Rex v. the Justices of Salop, E.* 7 *Geo.* 2. 1 *Sessions Cases*, 201. 2 *Strange's Reports*, 975. 1 *Bott*, 293. *Rex v. Shrewsbury*, 2 *Nolan*, 490, 3*d edit.*

Rate for taxing in Aid.

Taxing other parishes in aid of a poor parish.

310. Where the inhabitants of any parish are not able to levy among themselves sufficient sums, two justices shall tax, rate, and assess, any other parishes within the hundred, to pay to the churchwardens and overseers of such poor parish as they shall think fit. 43 *Eliz. c.* 2. *s.* 3.

Sessions cannot rate in aid.

311. The sessions cannot rate in aid, because the statute enacts it to be done by the justices. *Rex v. Griesley, T.* 2. *I.* 2. *Cases in the K. B. concerning Poor*, 259.

Must be by justices.

312. The assessment must be by the justices, and they cannot delegate their power. *St. Mary's v. St. Peter and St. Paul in Marlborough. T.* 12 *Geo.* 2. 2 *Strange's Reports*, 1114. 1 *Bott*, 349.

Churchwardens and overseers levy it.

313. After the justices have made the taxation, they are to leave it to the churchwardens and overseers to levy it. 2 *Salkeld's Reports*, 480.

The rate may be on any inhabitant

314. The justices may impose the charge upon *any of the inhabitants* of the adjoining parishes; and they are *not* obliged to put a general tax on the

whole parish. *M.* 32 *C.* 2. *Comberbach's Reports,* 309. *Ventris's Reports,* 350. *Rex v. Boroughfen, T.* 12 *Geo.* 1. *Foley's Poor Laws,* 29. 1 *Bott,* 351. 1 *Barnardiston's Reports,* 122. 1 *Nolan's Poor Laws,* 244, 245.

It must appear in order that the parish is in the same hundred.

315. It must appear in the order, that the parish charged in aid, is within the same hundred as the poor parish. *Boroughfen v. St. John's, T.* 9 *Ann. Foley's Poor Laws,* 27. 1 *Bott,* 348. 1 *Nolan's Poor Laws,* 245, 246. *St. Benedict v. St. Peter's, H.* 8 *Ann. Foley's Poor Laws,* 31. 1 *Bott,* 350, 353. 1 *Nolan,* 246, 247. 11 *Modern Reports,* 269.

A division equivalent to a hundred.

316. Any division which is equivalent to a hundred, is within the equity of the statute. *Rex v. the Tithing of Milland, E. Geo.* 2. 1 *Burrow's Reports,* 576. 1 *Bott,* 354. 1 *Nolan's Poor Laws,* 242.

County justices cannot rate in aid of a borough.

317. County justices cannot rate a parish within their jurisdiction, in aid of one out of their jurisdiction. *Rex v. Holbeche and another,* 32 *Geo.* 3. 4 *Term Reports,* 778. 1 *Bott,* 354. 1 *Nolan's Poor Laws,* 243.

The order must be for a limited time.

318. The order of justices must be for a limited time. *Rex v. St. Mary's in Marlborough, E.* 12 *Geo.* 1. 2 *Strange's Reports,* 700. 1 *Bott,* 349. 1 *Nolan's Poor Laws,* 250.

The assessment may be for a year.

319. The sum may be imposed in gross for a year. *Rex v. Knightly, M.* 6. *W. Comberbach's Reports,* 309. 1 *Bott,* 347. 1 *Nolan's Poor Laws,* 245.

The order must be to raise a sum certain.

320. The order on the contributary parish must be to raise a sum *certain,* and not *so much* in the pound. *Rex v. Telscombe, T.* 6 *Geo.* 1. 1 *Strange's Reports,* 314. 1 *Bott,* 348. 1 *Nolan's Poor Laws,* 245.

County contributary.

321. If it shall appear to the justices, that the hundred is not able to relieve the several parishes which are not able to provide for themselves; then the justices in *general quarter* sessions shall rate and assess any other of other parishes *, or out of any

* That is, "*any of the inhabitants of the neighbouring parishes.*" *Comb.* 309. 1 *Vent.* 350.

parish within the county, &c. 43 *Eliz. c.* 2. *s.* 3. *See Rex v. Percivall, T.* 3 *Geo.* 1. 1 *Strange's Reports,* 56. 1 *Bott,* 352. 1 *Nolan's Poor Laws,* 247, 249.

Sessions cannot make an original order.

322. But the sessions cannot make an original order upon a parish within the hundred. *Rex v. Eastchurch, H.* 9 *W.* 1. 1 *Bott,* 350. 1 *Nolan's Poor Laws,* 248.

As to the Liability of Parents and Children maintaining each other.

Poor persons to relieve and maintain each other according to their ability.

323. The father and grandfather, the mother and grandmother, and the children of every *poor, old, blind, lame, and impotent person,* or other poor person *not able to work;* being *of sufficient ability,* shall at their own charges relieve and maintain every such person in such manner, and according to such rate, as the justices of the peace of the county, where such sufficient persons dwell, at the quarter sessions shall be assessed, on pain of forfeiting 20*s.* for every month which they shall fail therein. 43 *Eliz. c.* 2. *s.* 7.

Two justices may order relief.

324. But now any two justices at a petty sessions may order relief, by the parents and children being *of sufficient ability,* as the justices in quarter sessions, by the 43 *Eliz. c.* 2. 59 *Geo.* 3. *c.* 12. *s.* 26.

Not obliged to maintain children of wife by a former husband.

325. A man is not obliged to maintain his wife's children, by a former husband, after their mother's death. *Reg. v. Clentham, T.* 9 *Ann. Foley's Poor Laws,* 39. 1 *Bott,* 371. 2 *Nolan's Poor Laws,* 232. 3*d edition.*

But he must during her life.

326. But he is bound to maintain them during his wife's life. *Reg. v. St. Botolph's, Aldgate, E. W. Ann. Foley's Poor Laws,* 42. 1 *Bott,* 372. 2 *Nolan's Poor Laws,* 231, 3*d edit. Foley,* 44.

Son's father not obliged to maintain son's wife.

327. The *son's father,* the son having run away, is not obliged to maintain the son's wife. *Rex v. Kenyon, M.* 7 *Geo.* 2. 2 *Strange's Reports,* 955. 1 *Bott,* 373. 2 *Nolan's Poor Laws,* 231, 232. 3*d edition.*

Reputed grandfather, &c.

328. The *reputed* grandfather or grandmother are not within the statute. *Rex v. Reeve, M.* 7. *Car.* 1.

2 *Bulstrode's Reports*, 344. 1 *Bott*, 362. 2 *Nolan's Poor Laws*, 231, 3*d edit.*

329. Where the father is living, but unable, the grandfather, being of ability, may be compelled to keep the grandchild, and to pay so much money as the justices think reasonable for the time past. *M.* 6 *Ann. Reg. v. Joyce.* 16 *Viner's Abridgment*, 423. 1 *Bott*, 372. 2 *Nolan's Poor Laws*, 232. 234. Grandfather to keep grandchild.

330. A son-in-law is not obliged to maintain his wife's mother. *Rex v. Munday, T.* 5 *Geo.* 1. 1 *Strange's Reports*, 190. 1 *Bott*, 373. 2 *Nolan's Poor Laws*, 232, 3*d edit.* Wife's mother.

331. The word *children* in the statute extends to grandchildren. *Walton v. Spark*, 27 *W. Cases in the K. B. concerning Poor*, 210. 1 *Bott*, 370. 2 *Nolan's Poor Laws*, 232, 3*d edit.* What is meant by *children* in the statute.

Of the Order of Maintenance.

332. The order must set forth, that the person is poor, and likely to become chargeable, and not able to work. *St. Andrew's Undershaft v. Jacob Mendez de Breta, M.* 13 *W.* 1 *Lord Raymond's Reports*, 699. 1 *Bott*, 365. 2 *Nolan's Poor Laws*, 233, 3*d edit. Rex v. Gulley, E.* 1 *Geo.* 1. *Foley's Poor Laws*, 47. 1 *Bott*, 366. 2 *Nolan's Poor Laws*, 233. 3*d edit.* Order to set forth that the person is poor.

333. The order must state that the party on whom it is made is of sufficient ability. *Reg. v. Halifax, H.* 12 *Ann. Cases in the K. B. concerning Poor*, 52. 1 *Bott*, 366. 2 *Nolan's Poor Laws*, 233, 3*d edit.* And that the party on whom it is made is of sufficient ability.

334. An order to pay so much a week, till the court should order the contrary, is good. *Jenkin's Case, E.* 5 *Ann.* 2 *Salkeld's Reports*, 534. 1 *Bott*, 365. 2 *Nolan's Poor Laws*, 233, 3*d edit.* Order to pay indefinitely, as to law, is good.

335. And the order must be made by the justices of the county, where the person, on whom it is made, dwells. 2 *Bulstrode's Reports*, 344. And made by the justices of the county.

336. The pauper must not be sent to the party on whom the order is made, but the justices in sessions should make a rate upon the party, of sufficient ability, of so much a week. *Reg. v. Jones, T.* 9 Pauper not to be sent to the party on whom the order is made.

of the poor under the provisions of the 29 *Geo.* 2. *c.* 36, they may (by the consent and direction of the major part of the inhabitants assembled at vestry, or at a public meeting to be held for that purpose, public notice thereof being first given in the church on *three* Sundays before) pay recompense for the same, and the charges of enclosing and preserving such grounds *out of the poor rate,* and shall apply the profit of the sale of timber or underwoods towards the relief of the poor. 29 *Geo.* 2. *c.* 36. *s.* 2.

As to planting.

347. *But there is no allowance for the charges of planting.*

Agreement for enclosure must be in writing.

348. The agreement for the enclosure must be in writing, signed by the parties, and enrolled within *three months* after the execution thereof with the clerk of the peace where the greater part of the wastes, woods, or pastures shall lie. *Ibid. s.* 3.

Appeal lies to the sessions within six months.

349. An appeal by any person aggrieved by such agreement, lies to the sessions within six months after the enrolment, and if there is no appeal the agreement shall be *for ever* binding. *Ibid. s.* 4.

Mode of relieving and ordering of the Poor.

When to be relieved.

350. The poor are to be maintained within their own parishes (*except in the case of bastards being nurse children*). *Clayton v. Ravistock, E.* 11 *Ann. Cases in the K. B. concerning Poor,* 49. 2 *Nolan's Poor Laws,* 324. 3*d edit. Darlington v. Hemlington, H.* 17 *Geo.* 3. 2 *Nolan's Poor Laws,* 304. 324. 3*d edit.*

Setting poor to work.

351. The churchwardens and overseers, with the consent of *two* justices, shall take *order* from time to time for setting to work the children of all such whose parents shall not, by the churchwardens and overseers, or the *greater* part of them, be *thought* able to keep and maintain their children; and for setting to work all persons, *married* or *unmarried,* having no means to maintain them, and using no ordinary and daily trade; and for the necessary relief of the *lame, impotent, old, blind,* and such *other*

among them being poor, and *not able to work.* 43 *Eliz. c.* 2. *s.* 1.

352. And all such poor as shall not employ themselves to work, being appointed thereto as aforesaid, shall be sent to the house of correction, or county gaol. *Ibid. s.* 4. Poor not employing themselves to work.

353. Overseers of the poor are bound *to endeavour* to find work for the *able-bodied* poor who are *out* of employment. *Rex v. Collet, Clerk, M.* 1823. 2 *Barnewall and Cresswell's Reports,* 324.

354. It is a matter of doubt whether the overseers can *legally* give relief to such persons otherwise than by *setting* them to work, and paying them for their labour *. By "the 43 *of Eliz. c.* 2., they are not warranted in giving *pecuniary* relief to persons *able* to work, without *requiring work* from them; and that power has not been enlarged by any subsequent statutes." Relief in money.

355. "The said statute has been considered to have been the first legislative provision for the maintenance of the poor; but that proves to be an erroneous impression. It certainly embraces all the former laws, and was the result of all the experience then obtained upon the subject; but there are earlier statutes †, and some of them throw light upon the question. There is not in any one of them a single expression which gives colour to the idea, that any persons are entitled *to relief in money,* unless as a remuneration for their labour, *except those who are unable to labour.*" Persons entitled to relief in money are those only who work, and that as a remuneration for their labour.

356. "The preamble of the 5 *Eliz. c.* 2. states, 'that to the intent that *idle* and *loitering* persons, and As to idle and loitering poor.

---

* The following observations are extracted from the argument of Mr. Scarlett, in the case of *Rex v. A. Collet, Clerk, M.* 1823. 2 *Barnewall and Cresswell's Reports,* 324, where this question was argued at some length.

† 22 *H.* 8. *c.* 12. 27 *H.* 8. *c.* 25. 3 *and* 4 *Ed.* 6. *c.* 16. 5 *and* 6 *Ed.* 6. *c.* 2. 2 *and* 3 *Ph. and M. c.* 5. 5 *Eliz. c.* 3. 14 *Eliz. c.* 5.

valiant beggars be avoided; and the *impotent, feeble,* and *lame,* which are poor in very deed, should be hereafter relieved and well provided for.' The same statute then enacts, 'That a book shall be kept, in which the names of all such *impotent, aged,* and *needy* persons, which are not *able* to live of themselves, nor with their *own* labour; for them a collection is to be made, and the *parson* and *churchwardens* are to appoint two able persons to be gatherers and collectors; and the collection is to be distributed to the said poor and *impotent* persons after such sort, that the more *impotent* may have the more *help,* and such as can get *part* of their living to have *less,* and by the discretion of the collectors to be put on such labour as they be fit and able to do.' By which enactment provision was made for the poor, and the meaning of making such provisions is pointed out, viz. '*By setting to work those who were capable of working, and by giving pecuniary relief to the impotent.*'"

A book to be kept for inserting the names of the poor who receive relief.

Pecuniary relief to the impotent.

Poor to do as much work as they are able.

357. "Nothing could more clearly show the intention of the legislature upon this point, than the provision that those not *wholly impotent should do as much work as they were able.*"

358. "No material alteration was made by any subsequent statute, until the whole of them were incorporated in the 4 *Eliz. c.* 2, the first section of which enacts, 'That the overseers should raise *weekly* or otherwise, by taxation, in the manner therein specified, a convenient stock of *flax, hemp, wool, thread, iron,* and other necessary *ware* and *stuff,* to set the poor on work; and also competent sums of money for and towards the necessary relief of the *lame, impotent, old, blind,* and such other among them being poor and *not able* to work; and to do and execute all things, as well for the disposing of the said stock as otherwise, concerning the premises as to them shall seem convenient.'"

Overseers to raise by taxation weekly, a stock of flax, &c. to set the poor to work.

359. "There is nothing in that enactment which binds the overseers to *employ* the poor in any *particular* work. The *means* of employing them pointed out by the act, are only to be adopted if they should be thought the best."

Overseers are not bound to employ the poor in any particular work.

360. "The overseers are expressly authorised to do such *other* things touching the premises, that is, the employment of the poor, as to them shall *seem* convenient; that gives them authority to instruct the poor in *trades*, and if the labour of the poor becomes *unnecessary* in the old channels, it is the *duty* of the overseer to *divert* it into a *new* one." Overseers are to do such other things for the employment of the poor, as they think fit.

361. "It is not contended, that a person out of employment is to be suffered to *starve*, because he is *able* to work, or that he is *not* entitled to relief; but that relief must be provided, by setting him to *work* in some way or other." A poor person out of employment is not to starve.

362. "The construction which is put upon *sect.* 7. of the 43 *Eliz. c.* 2. strongly corroborates the idea, that *impotent*, in the 1*st section*, means those physically unable to work. That *section* enacts, 'That the father and grandfather, and the mother and grandmother, and the children of any *poor, old, blind, lame*, and *impotent* person, or other person *not able* to work, (being of sufficient ability), shall, at their own charge, relieve and maintain any such poor person in that manner, and according to that rate, as by the justices of the peace of the county where such sufficient persons dwell, at their general quarter sessions, shall be assessed.'" Impotent means those physically unable to work. Parents and children to relieve each other.

363. "It is clear, that a good order cannot be made upon a parent to support a child, unless it is shown that the child is *impotent*; and it would be absurd to say a *similar* order upon the parish would be valid." A child must be impotent, or the order will not be good.

364. "The next statute bearing upon the question is the 13 *and* 14 *Car.* 2. *c.* 12. the third *section* of which enables persons to go out of their *own* parish to work in *another*, taking with them a *certificate* that they belong to the parish which they leave; and it provides thus,—'If they shall *not* return when their work is finished, or shall fall *sick* or *impotent* whilst they are in the said work, it shall not be accounted a *settlement*, but they may be *removed* to the place whence they came.'" Persons going out of their parishes to take a certificate.

365. "There the word *impotent* clearly means *unable* to work, not unable to *procure* work." Meaning of impotent.

366. "The subsequent part of the same *section*

Parish officers refusing to receive paupers removed.

enacts, 'That if the churchwardens and overseers of the poor of the parish to which such persons shall be removed *refuse* to receive them, as other inhabitants of the parish, they shall be subject *to indictment.*' Nothing could be a plainer recognition of the obligation on the overseer."

367. "Then followed the 3 and 4 *W. and M.* c. 11. to which, perhaps, may be traced the *present practice* of allowing relief in money to persons *not* included in the *description* in the 1*st section* of the 43 *Eliz. c.* 2." (*pl.* 356, *p.* 101.)

The distribution of the funds collected left in the discretion o the overseers.

368. "The latter statute, which left the distribution of the funds collected in the *discretion* of the overseers subject to *no other* control than the *allowance* of their accounts, was *abused*, as appears by the recital in the 3 and 4 *W. and M. c.* 11. *s.* 11. which there provides, 'That books shall be kept, and the names of those who receive collection registered thereon, together with the causes of their receiving relief; and that no person not entered in those books should be allowed to receive collection at the charge of the parish; but by the authority of a justice of the peace *residing within* the parish, or (if none should be there dwelling) in the parts near adjoining, or by the order of the quarter sessions, excepting in certain cases of emergency."

Books to be kept, and the names of those receiving relief to be entered.

A justice cannot order relief at his discretion.

369. "It has been supposed that a justice was *thereby* empowered to order relief to any person at his *discretion;* but that supposition is quite *unfounded.* It does not vary the mode of giving relief, or give any *new* description of persons a *claim* to it, but merely regulates the distribution of the money collected."

Persons must be impotent, or they cannot be put on the list.

370. "If a justice under that act puts a person on the collection list to receive *money,* it was necessary that he should be described as *impotent.*"

Relief must be by work.

371. "Persons chargeable merely for the want of work, are to have relief; but that must be given *by finding them work:* there is *no* power to give them *money* without requiring *work* from them; and the legislature never seem to have contemplated *any different* mode of relief, whether the labour should prove profitable or not."

372. "The second *section* of that act is a clear

recognition of the principle. It is expressly stated, that the enactments therein contained were made '*to the end* that the money raised only for the relief of such as are as well *impotent* as poor, may not be *misapplied* and *consumed* by the *idle, sturdy,* and *disorderly* beggars.'" Impotent poor.

373. "The 9 *Geo.* 1. *c.* 7. *s.* 1. only required, that certain directions should be complied with, before any poor person had relief. It did not alter the mode of giving relief, nor is there a single expression in it to justify the opinion, that those *able* to work, but *out* of employment, were to receive *pecuniary* relief. One great object of the statute was, the establishment of *poor-houses* for the lodging, keeping, maintaining, and *employing* the poor." Relief in money not to be given to those able to work, but out of employment.

374. "The 22 *Geo.* 3. *c.* 83, was made *in pari materiâ*; that authorised the union of different parishes for the purpose of better enabling the overseers of the poor to *employ* those *out* of work, and does not authorise the administration of relief *in any other mode.*" The union of parishes.

375. "The 36 *Geo.* 3. *c.* 23. was merely intended to obviate the necessity of sending the *distressed* to the *poor-house* under all circumstances. The temporary distress there mentioned, is such as might arise from *frost* or *floods,* or accidental causes of that nature, the termination of which could be fairly calculated upon, and clearly does not include the case of persons *out of work,* and who have not any prospect of obtaining *employment.*" Temporary distress from frost or floods.

376. * "The primary duty of the overseers is to find *employment* for the poor, *if possible*; to whom no greater kindness can be done, than by *enabling* them to earn their own living by *labour,* instead of suffering them to eat the bread of *idleness,* by which their habits and morals must soon be corrupted." Primary duty of overseers.

377. The churchwardens and overseers, as is before mentioned, were, by the 43 of *Eliz.* directed to Parishes may purchase land, &c. to be employed in cultivation by the poor.

---

* *Abbott, C. J. Rex v. Collett, M.* 1823, (*pl.* 353, *p.* 101, *ante.*)

set such poor persons who were able, to work; but the powers thereby given to the churchwardens and overseers being found insufficient to keep such persons *fully* and *constantly* employed, the statute of 59 *Geo. 3. c.* 12. enacts, "That it shall be lawful for the churchwardens and overseers of the poor of every parish, with the consent of the inhabitants in vestry, *to take into their hands any land or ground which belong to the parish* or to the churchwardens and overseers of the poor of such parish, or to the poor thereof, or to *purchase*, or to *hire*, and take on *lease*, on account of the parish, any suitable portion or portions of land, within or near the parish, not exceeding 20 acres in the whole, and to employ in the cultivation of such land on account of the parish, any such persons, as by law they are directed to set to work, (see *pl.* 351, *p.* 100, *ante*,) and to pay to such poor persons so employed, as shall not be supported by the parish, reasonable wages for their work; and such poor persons so employed shall have such and the like remedies for the *recovering* of their wages, and shall be subject to such and the like punishment for *misbehaviour* in their employment, as other labourers in husbandry are by law entitled and subject to." 59 *Geo.* 3. *c.* 12.

Not exceeding 20 acres.

Parish officers may let portions of the land, &c.

378. Parish officers, with the consent of the inhabitants in vestry, may let any portion of parish land, or of the *land* to be so *purchased*, *hired*, or *taken*, on account of the parish, to any industrious poor inhabitant of the parish, to be cultivated for his *own* benefit, at such *reasonable* rent, and for such *term* as the vestry shall fix. *Ibid. s.* 13.

Limiting the amount of assessment, and the consent of inhabitants.

379. No sum exceeding the amount of a one shilling rate, to be raised, expended, or applied in purchasing, taking, and stocking such *land*, unless the major part of the inhabitants and occupiers assessed to the relief of the poor in vestry assembled shall consent, *nor* until two-third parts in value, of all the inhabitants and occupiers as aforesaid, (whether present in vestry or not), shall have signed their consent in the vestry or parish book. *Ibid. s.* 14.

Advance of exche-

380. The 57 *Geo.* 3. *c.* 34. authorises the issue of

exchequer bills, and the advance of money out of the consolidated fund, (*inter alios*) for the employment of the poor of Great Britain, and enacts, "That no *such* exchequer bills shall be advanced in aid of any parish in *Great Britain*, unless the application for such advance shall be made with the consent of *not less than the majority in number*, and *of three-fourth parts in value*; such value to be ascertained from the last poor rate. 57 *Geo.* 3. *c.* 34. (*continued and amended by* 1 *Geo.* 4. *c.* 60. and 5 *Geo.* 4. *c.* 77). quer bills for the employment of the poor.

381. But where the poor rate is under the management of a *select* vestry, commissioners, or governors of the poor, trustees, or other *select* body these, with the consent of *not less than four-fifths* of such *select* body, such consent to be certified by a justice of the peace, or magistrate acting *in the parish*, and one or more of the overseers. *Ibid.* If poor rate is under a select vestry, commissioners, or governors of the poor.

382. The principal sum mentioned in such exchequer bills, to be repaid without deduction with interest, at 5*l. per cent. per annum*, by instalments, at least 15 days before each of such exchequer bills shall become payable. *Ibid. s.* 35. 57 *Geo.* 3. *c.* 124. *s.* 6. (*continued and amended by* 1 *Geo.* 4. *c.* 60. and 5 *Geo.* 4. *c.* 77. To be repaid by instalments.

383. A book shall be kept in every parish, wherein the names of all persons who receive collections shall be registered, with the *day* and *year* when they were first admitted to have relief; and the parishioners shall meet yearly in *Easter* week, or oftener, in the vestry, or other usual place of meeting in the parish, before whom the book shall be produced, and the names of all persons receiving collections to be called over, and the reason of their taking relief examined, and a new list made of persons as they shall think fit, and allow to receive relief. 3 *W. M. c.* 11. *s.* 11. The name of persons receiving relief to be entered in a book.

384. No others are to be relieved at the charge of the parish, but by the order of *one justice* residing in the parish, (or if there is no justice residing in the parish), or near or next adjoining, or by order of the *justices* in sessions, except in cases in pestilential diseases, plague, or small-pox. *Ibid. s.* 11. None others to be relieved but by order of a justice.

Justices not to order relief before oath made of the necessity for it.

385. No justice shall order relief until oath is made of the necessity for receiving relief, and that the party had, by himself, or some other person, applied for relief to the parishioners at vestry, or other public meeting, or to *two* of the overseers, and was refused to be relieved, and until the justice hath summoned *two* of the overseers, to show cause why relief should not be given. 9 *Geo.* 1. *c.* 7. *s.* 1. (*See post, as to relieving poor out of the poor-house.*)

Parish not to be charged with money given to poor who were not registered.

386. And the name of such person shall be entered in the said book. And no officer (except in cases of emergency) shall *charge the parish with any money given to any poor person*, who is not so registered, under the penalty of *5l.* to be levied by warrant of distress, under the hands and seals of two justices, to be applied to use of the poor, by the direction of the justices. *Ibid. s.* 2.

Order for relief to be made by two justices, and that only for one month, except in cases of urgent distress, then by one justice.

387. Every order for relief in parishes not having a *select* vestry, shall be made by *two* or *more* justices, and that only for one month from the date. But in cases of *emergency* and *urgent* distress, *one* justice may make an order for relief for 14 days, and which order shall not remain in force after the next *petty sessions* held within the hundred, or other division or district in which the parish is situated. 59 *Geo.* 3. *c.* 12. *s.* 5.

The order should state the person to be poor and impotent.

388. An order for payment of a weekly sum to a poor person, should state the person to be *poor* and *impotent*. *Rex v. The Inhabitants of Hayworth or Highworth, M.* 3 *Geo.* 1. 1 *Strange's Reports*, 10. 1 *Bott*, 402. *Rex v. Stoke Ursey, E.* 3 *Geo.* 1. *Rex v. Tipper, E.* 4 *Geo.* 1. 1 *Bott*, 403.

Order for weekly relief due the beginning of the week.

389. On an order for *weekly* relief, the money is due the *beginning* of the *week*. *Rex v. Fearnley*, 1 *Term Reports*, 316. 1 *Leach's Crown Cases*, 4*th edit.* 1 *Bott*, 418. 2 *Nolan's Poor Laws*, 234. 274. 329., 3*d edit.*

Sessions have no power to order parish officers to pay a surgeon's bill.

390. The sessions have no power to order overseers to pay a surgeon's bill for curing poor persons under their care, nor have justices of the peace *out of session* any such power. *Rex v. Colbitch, E.* 1

Geo. 1. 1 *Barnardiston's Reports*, 46. *Rex v. Woodsterton, M.* 6 *Geo.* 2. 2 *Barnardiston*, 207, 247. 1 *Bott*, 404. 2 *Nolan's Poor Laws*, 323, 3*d edit.*

391. An overseer is indictable for neglecting to supply medical assistance when required, to a pauper labouring under dangerous illness, though such pauper was not in the parish workhouse, nor had previously to his illness received, or stood in need of parish relief. *Rex v. Warren, Worcester Lent Assizes*, 1820. Overseers indictable for refusing medical assistance to a pauper.

392. Overseers (by the direction of two justices, or of the general or select vestry, or of the guardians, governors, or directors, where application is made to them respectively), may advance money weekly, or otherwise, to poor persons, *by way of loan only*, to be repaid by weekly instalments, or otherwise, as any *two* justices shall think fit to order, and in default of payment, such poor person may be committed to the county goal or house of correction, for any time not exceeding *three* calendar months, unless the sum payable by virtue of the order shall be sooner paid. 59 *Geo.* 3. *c.* 12. *s.* 29. Overseers may lend money to poor persons by way of loan.

393. Any person entitled to a pension, superannuation, or other allowance, for services in the *army, navy, marines*, or *ordnance*, applying to a parish for relief, may assign to the churchwardens and overseers the *next* quarterly, or other payment of such persons, that they may receive the same, and retain so much thereof as they shall have advanced thereon, for the relief of such pensioner or his family, residing in said parish. *Ibid.* 30. Pensions may be assigned to parish officers.

394. Churchwardens and overseers may advance for the support of such pensioner or his family, any weekly sum *not exceeding* the rate of his pension, to be repaid out of his next quarterly payment, and take an assignment thereof, by way of security, which assignment is exempt from stamp duty, and must be in the form following:— And they may advance to such persons weekly sums.

I, [*naming the pensioner, or other applicant, and stating such particulars as shall be requisite,*] do hereby assign to the churchwardens and overseers of Form of assignment.

the poor of the parish of the next payment of the pension, at the rate of *per diem* [*or, as the case may be*], granted to me as , and payable from , in order to secure to the said parish of the repayment of the sum of advanced to me [*or*, of the weekly sum of , ordered or agreed to be advanced to me, *as the case may be*], by such churchwardens and overseers.

Signed by the above-named
before me, one of his majesty's justices of the peace for this
day of .

Which must be attested by one justice of the peace.

And such assignment must be attested by one justice of the peace, and transmitted by the parish officers, at least one month before the payment becomes due, under cover, addressed to the paymaster-general of his Majesty's forces, with the words, "*Chelsea Pensioner*," or to the paymaster-general of pensions at *Greenwich* Hospital, with the words, "*Greenwich Pensioner*," or to the paymaster of the royal marines, with the words, "*Royal Marines Pensioner*," or to the secretary to the board of ordnance, with the words, "*Ordnance Pensioner*," written thereon, respectively. The parish officers, on receiving such pensions, are to retain what they have advanced, and pay the residue to the pensioner." *Ibid. s.* 30.

In case of any dispute with parish officers, the sum to be settled by a justice.

395. In case any dispute shall arise between the pensioner and the parish officer, as to the amount which shall be due, and payable under the assignment, the same shall be determined in a *summary* way by *one* justice of the peace, and his order and determination therein shall be final and conclusive. *Ibid.*

Assignments void by the death of the pensioner.

396. All such assignments are void by the death of the pensioner before the day of payment of the pension. *Ibid.*

Pensioner leaving his family.

397. Upon complaint on oath, by any one or more of the churchwardens and overseers, of any pensioner having left his wife or family chargeable, or having suffered them to become chargeable, two justices

of the peace may order the payment of his pension to the overseers. *Ibid. s.* 31.

398. Two justices of the peace, upon complaint on oath of one or more of the parish officers, may order the acting owner or owners, ship's husband, or agent of any ship, in which any seaman shall be employed, to pay so much of the wages of such seaman whose family becomes chargeable, during absence, to the churchwardens and overseers, as they shall have necessarily expended for their relief; and the amount, in case of dispute, shall be ascertained by *two* justices, whose determination therein shall be final. *Ibid.*

Owners of ships, &c. to pay wages of seaman whose family becomes chargeable to parish officers.

399. If the owners, &c. refuse to pay, the like proceedings may be had by the parish officers against them for the recovery thereof as for the recovery of the poor's rates. *Ibid.*

If they refuse.

400. Parish officers, by consent of *two* justices, where there is more than one within their limits; and where there is only one, then with the consent of such *one* justice; may set up and exercise any trade, mystery, or occupation, for the setting to work and better relief of the poor. 3 *Car.* 1. *c.* 4. *s.* 22.

Parish officers may set up trades for the relief of the poor.

401. And they may, by the leave of the lord of the manor, build, on the waste or common, at the charge of the parish, or otherwise of the hundred or county, convenient houses of dwelling for the *impotent* poor. (*Suppl.* 346, *p.* 99, *ante.*)

And build on the waste.

402. Churchwardens and overseers, with the consent of the major part of the parishioners or inhabitants in vestry, or other parish or public meeting for that purpose assembled, may purchase or hire any house or houses in the parish, and contract for the lodging, keeping, maintaining, and employing such of the poor as desire relief from the parish; and if any poor person of the parish, &c., where such house shall be, shall refuse to be lodged, kept, or maintained in such house, he shall be put out of the parish book, and shall *not* be entitled to *receive relief* from the churchwardens and overseers. 9 *Geo.* 1. *c.* 7. *s.* 4.

Parish officers may hire houses, and contract for maintaining and employing the poor.

403. If any parish, &c. shall be too small to purchase or hire such house, *two* or *more* parishes, with

Small parishes may unite for that purpose.

the consent aforesaid, and with the approbation of any justice of the peace dwelling *in* or *near* such parish, &c., may unite in purchasing, hiring, &c. such house for the aforesaid purposes. *Ibid. s.* 4.

Parish officers of one parish may contract with the parish officers of another parish for lodging, &c. the poor.

404. The parish officers of any parish, &c., with such consent as aforesaid, may contract * with the parish officers of any other parish, &c., for the lodging, maintaining, or employing the poor of such other parish, &c., as to them shall seem meet. *Ibid.*

No settlement to be acquired by removal under this act.

405. No poor person, his apprentice, or child, shall acquire a settlement in the parish, &c. to which he

---

* Where two parishes, &c. join in contracting, it will be necessary to insert in the contract the consent of the justice of the peace, viz. *by and with the consent of the major part of the said inhabitants so assembled as aforesaid respectively, and also by and with the consent of , esq., one of his majesty's justices of the peace for the said county, dwelling in the said parish of* (or *near to the said parishes or townships of*).

And the consent of the justices may be indorsed on the contract, viz.:

I, , esq., one of his majesty's justices of the peace for the within mentioned county of , and dwelling in the within mentioned parish of , (or *near to the within mentioned parishes or townships of , and*) do consent, unite, allow, and approve of the within written contract. Given under my hand and seal the day of , 1826.

It may be advisable to insert in the contract a clause with respect to *clothing*, stating in what condition the poor *shall go*, and in what condition they shall be *delivered* back; and in case of death who shall be at the charge of burying them; and also, if they shall be refractory or *ungovernable*, who shall be at the charge of sending them to the house of correction; and such other conditions may be considered as shall be agreed upon.

shall be removed by virtue of this act; but his, her, and their settlement shall be in such parish, &c. as it was before such removal. *Ibid.*

406. Justices of the peace have, by withholding their assent, the means of preventing any bad use being made of the power given to parish officers by the above statute, which has been in many instances very beneficial; but it has in as many instances been carried too far by overseers, who in many places having contracted with some person of bad disposition for the maintenance of the poor, not with the intention of better providing for them, but as the means of getting rid of their importunities for relief, if they are not satisfied with what the overseers think fit to allow them; one such contractor often undertakes to provide for the poor of several parishes.

Power of justices to withhold their consent.

407. No such contract shall be valid unless the contractor resides in the parish in which the poor shall be lodged or maintained, or in case of two or more parishes uniting, then resident in one of such parishes, nor unless *one* or *more* responsible householders resident in such parish, to be approved of by the parish officers, join the contractor in a bond, in a penalty of not less than the amount of *half* of the assessment to the poor's rates of such parish or united parishes for the year next but one preceding the year in which the contract shall be made, conditioned for the true and faithful performance of the contract; *nor unless the contract shall be approved of, and signed by two justices for the county where such parish or united parishes shall be.* 45 *Geo.* 3. *c.* 54. *s.* 1.

Contract not valid unless the contractor resides in the parish where the poor are to be lodged or maintained.

408. If the contractor shall remove from, and cease to reside as before-mentioned, before the end of the term for which the contract is made, the contract shall be void from the time of such removal; but such removal shall not vacate the security, but the same shall remain for the indemnification of the parish officers in consequence of breach of the contract and removal. *Ibid. s.* 2.

Contract to be void if the contractor removes from the parish; but the security to remain in force.

ducting the expenses, apply the produce of the sale towards the purchase or building of a new workhouse, or towards the payment of money borrowed under the authority of this act, as the inhabitants in vestry shall direct. *Ibid. s.* 9.

Churchwardens and overseers may purchase or hire a workhouse in adjoining parish.

418. Where no poor-house can be procured in the parish, the churchwardens and overseers, by the direction of the inhabitants in vestry, may purchase or hire any suitable and convenient house or houses, building or buildings, for that purpose in any adjoining parish, with the consent of two or *more* justices, such consent to be written upon or annexed to the agreement; but no such house or building shall be more than *three miles* from the parish for which it shall be purchased or hired. *Ibid. s.* 10.

No sum exceeding a one shilling rate to be expended in one year in purchasing, building, &c.

419. No sum exceeding the amount of a *one shilling* poor rate shall be *raised, expended,* or *applied* in any *one* year in purchasing, building, and repairing any buildings or land, and in fitting up, preparing, and furnishing thereof, and in stocking the land, or for any one or more of such purposes or objects, unless the major part of the inhabitants and occupiers assessed to the poor in vestry assembled shall consent, nor until *two-thirds* part in value of all such inhabitants and occupiers (*whether present in vestry or not*), shall have also signed their consent thereto in the vestry or parish book. *Ibid. s.* 14. (*See p.* 106. *pl.* 379, *ante.*)

Parish officers may raise further sums by way of loan or by annuity.

420. The churchwardens and overseers, with such consent as aforesaid, may raise further sums by way of loan or by sale of annuities on any life or lives not being under the age of fifty years, or for a certain time not exceeding fifteen years, so that the whole sum to be raised shall not be more than *five shillings* in the pound on the *true* annual value of the property assessed to the poor's rate (every proposal for such annuity being first stated to and approved by the inhabitants and occupiers in vestry assembled); and all future rates made for the relief of the poor shall be charged with the repayment of the principal sum borrowed and interest, or with the payment of annuities. *Ibid. s.* 15.

421. No greater rate than *one shilling* in the pound shall be charged on future rates, unless with the consent of *two-thirds* in value of the proprietors. *Ibid. s.* 16. Future rates.

422. Churchwardens and overseers may take and sue as bodies corporate*. *Ibid. s.* 17. Parish officers bodies corporate.

423. Incapacitated persons are empowered to convey; and all the powers, provisions, and directions contained in the 22 *Geo.* 3. *c.* 83. as to sales, &c. applied to this act. *Ibid. s.* 18. (*See the* 22 *Geo.* 3. *c.* 83.) Incapacitated persons may convey.

424. The overseers, with the approbation of the parishioners, or a majority of them in vestry or other usual place of meeting, or with the approbation, *in writing*, of *one* justice, may give relief to any poor person *at his own home* under circumstances of *temporary* illness or distress; and in certain cases respecting such poor person or his family, or the situation, health, or condition of any poor-house erected under the statute 9 *Geo.* 1. *c.* 7. (*p.* 111. *pl.* 402, *ante*), although such poor person refuses to be lodged, kept, and maintained in the poor-house. 36 *Geo.* 3. *c.* 28. *s.* 1. Relief at the houses of poor persons in temporary illness or distress.

425. Any justice of the peace acting in the district may at his *just* discretion order relief to any industrious poor person *at his home*, notwithstanding any contract shall have been made for maintaining the poor in the workhouse. *Ibid. s.* 2. Any justice may order relief to a poor person at his own house.

---

* The 59 *Geo.* 3. *c.* 12. *s.* 17, vests in the churchwardens and overseers of the poor, in the nature of a body corporate, all buildings, lands, and tenements belonging to the parish. It was held, that in order to constitute a body corporate intended by the act, there must be *two* overseers and *one* churchwarden; and that where there were *two* overseers appointed, one of whom was afterwards appointed (by custom) sole churchwarden, the act did not vest parish property in them. *Woodcock v. Gibson and others*, T. 6 *Geo.* 4. 4 *Barnewall and Creswell's Reports*, 462.

Cause of ordering relief must be assigned.

426. The special cause of ordering relief must be *assigned* and *written* on each order; and no order to be given for a longer time than *one month* from the date of it. *Ibid. s.* 3.

Two justices may make further order of relief.

427. But two justices may make any further order for any further time *not exceeding* one month, and so on from time to time, as occasion shall require; the justice or justices *first* swearing the party as to the need of relief in each of the above cases, and summoning the overseers to show cause why the poor person should not receive relief in manner as by law provided in cases where *no* contract for lodging, keeping, and maintaining the poor as aforesaid has been made. *Ibid.* (*See the next pl.* 428.)

Justices may order relief to be paid to a poor person at his own house not exceeding three months.

428. Any justice or justices of the peace, in the cases and in the manner above-mentioned, may order relief to be paid to any poor person at his or her *own house* during such time as they shall think proper, not exceeding *three* months from the date of the order; and two justices may make further order for any time not exceeding *six* months; and they may order such relief to be discontinued. 55 *Geo.* 3. *c.* 137. *s.* 3.

Money ordered for longer than a month not to exceed 3*s.* a week, or three-fourths of the weekly expense of a person in the workhouse.

429. The money which shall be ordered to be paid as aforesaid for any longer period than *one* month, shall not exceed for each poor person *three shillings* per week, or *three-fourths* of the average *weekly* expense usually paid by the parish for the maintenance of each poor person in the workhouse. *Ibid. s.* 4. (*See* 59 *Geo.* 3. *c.* 12. *title Select Vestries, post.*)

Not to extend to houses of industry under the 22 Geo. 3. c. 83.

430. Nothing in the above act contained shall extend to places where houses of industry have been provided under the 22 *Geo.* 3. *c.* 83, or of any special act for any parish now in force. 36 *Geo.* 3. *c.* 23. *s.* 4. (*See* 22 *Geo.* 3. *c.* 83. *post.*)

Justices, &c. may visit workhouses.

431. Any justice of the peace (physician, surgeon, apothecary, or officiating clergyman authorized by such justice) may in the daytime visit any parish workhouse or house (except workhouses regulated by any special act of parliament) kept for the maintenance of the poor within the county, and examine

into the condition of the poor, the food, bedding, and clothing, and the condition of the house; and if there is any cause of complaint, the justice, physician, &c. are to certify the same under hand and seal to the *next* quarter sessions for the county, and cause the overseers, or master, or governor of the workhouse to be summoned to appear to answer the complaint at the sessions, and the justices there shall make such orders and regulations for removing the cause of complaint as they shall think fit. 30 *Geo.* 3. *c.* 49. *s.* 1. 3. (*See Rex v. Laughton, H.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 324. 1 *Bott, continued to* 1814, 40. *post.*)

Contagious and infectious disease in workhouse.

432. Such justice, physician, &c. upon any such visitation, finding any of the poor affected with contagious or infectious disease, or in want of *immediate* medical or *other* assistance, or of *sufficient* and *proper* food, or requiring separation or removal from the other poor, if the visitation is made by a justice, then he shall apply to another justice of the county, quarter, or division, and certify to him the state and condition of the poor in such house; or if the visitation is made by such other persons, they shall apply to *two* justices, who shall make an order for immediate medical assistance, or of sufficient and proper food, or for the separation or removal of the afflicted poor, as they shall direct, until the *next* quarter sessions; at which sessions they are to certify the same under their hands and seals, in order that the sessions may make such order for the further relief of the poor in such workhouse as to them shall seem meet. *And the charges of relieving such poor shall be paid out of the poor's rate, as the sessions shall direct. Ibid. s.* 2. (*See Rex v. Warren, p.* 109, *pl.* 391, *ante.*)

Justices may appoint the keeper of a workhouse to be the governor thereof.

433. Justices of the peace in any special sessions, on the application of the overseers or the major part of them, may appoint the keeper of a workhouse to be the governor so long as he continues keeper thereof; and the keeper so appointed shall continue keeper, until the justices in any special sessions shall revoke the appointment, and shall have, use,

and exercise the powers and perform the duties by the act of 22 *Geo.* 3. *c.* 83. vested in and imposed upon governors of the poor. 50 *Geo.* 3. c. 50. *s.* 3. (9 *June*, 1810.) (*See the* 22 *Geo.* 3. *c.* 83. *post.*)

Form of appointment of a governor of a workhouse.

434. *The Form of a Workhouse Governor's Appointment, under the* 50 *Geo.* 3. *c.* 50. *s.* 3.

County of ——— *to wit.* } At a special sessions held at in the county of this day of 182 , by justices of the peace for the said county, acting for the hundred of within the same county. Upon the application of the major part of the overseers of the poor of the parish of in the said county to us, whose hands and seals are hereunto affixed, being justices of the peace acting in and for the aforesaid county and hundred, we do hereby appoint keeper of the workhouse of the said parish of to be governor thereof, and so long as the said shall continue keeper of the said workhouse, until the justices in any special sessions shall revoke this appointment, he is hereby authorised to use and exercise the powers, and perform the duties vested in, and imposed upon governors of the poor, by an act passed in the 22d year of the reign of king George the 3d, *c.* 83. intituled "An Act for the better relief and employment of the poor." According to an act passed in the 50th year of the same king, intituled "An act to explain and amend an act made in the last session of parliament relating to the relief and employment of the poor, so far as relates to the more effectually carrying the same into execution, and to extend the provisions thereof to parishes which shall not have adopted the provisions of an act of the 22d year of his present majesty, for the better relief and employment of the poor." Given under our hands and seals the day and year above written.

Pauper embez-

435. Any person in a poor-house or workhouse

embezzling, or *wilfully wasting*, *spoiling*, or *damaging* any of the clothing, goods, or materials committed to his or her care, or taking or carrying away any such articles without the permission of the overseer of the poor, or keeper of such house, on complaint thereof on oath to *one* or *more* justices, and on conviction thereof, such person may be committed to the house of correction, there to be kept to hard labour for any time not exceeding *two* calendar months, nor less than *seven* days. *Ibid. s.* 4. slling in a poor house

to be committed to the house of correction.

436. The master, governor, or other person intrusted with the superintendence of a poor-house, or the churchwardens, overseer, or other person elected, or appointed under the authority of any act of parliament for the management of the poor, may not punish any adult under his charge with corporeal punishment, for any offence or misbehaviour whatsoever, or to confine any such person for more than 24 hours, or such proper time as may be necessary in order to have such person before a justice of the peace. 54 *Geo.* 3*. *c.* 170. *s.* 7. (30*th July*, 1814.) Poor adults not to be punished by the master of a workhouse, &c. with corporeal punishment, nor to confine them more than 24 hours,

437. Nor shall any governor, director, guardian, or master of any house of industry, or workhouse, chain, or confine by *chains* or *manacles*, any poor person of *sane* mind. 56 *Geo.* 3. *c.* 129. *s.* 2. nor to chain or confine with manacles any sane person.

438. In an indictment or information for felony or misdemeanor, committed in, upon, or with respect to any workhouse or poorhouse, or on, or with respect to any goods or chattels whatsoever, provided for the use of the poor of any parish, township, hamlet, or place, or to be under any workhouse or poorhouse, in, or belonging to the same, or by the master or mistress, or by any workmen or servants employed therein, it shall be sufficient to state the property to belong *to the overseers of the poor* for Goods ordered for the use of the poor of a parish, &c. may be laid as the property of the overseers.

---

* Intituled "An act to repeal certain provisions in local acts, for the maintenance and regulation of the poor, and to make other provisions in relation thereto."

the time being, without specifying their names. 7 *Geo.* 4. *c.* 64*. *s.* 16. (*see* 55 *Geo.* 3. *c.* 137. *s.* 1.)

Property of goods for the use of the poor vested in the overseers;

439. The property of all goods, chattels, furniture, provisions, clothes, linen, and wearing apparel, tools, utensils, materials, and things whatever, provided for the use of the poor, is vested in the overseers of the poor for the time being and their successors in office. 55 *Geo.* 3. *c.* 137†. *s.* 1, 2. (*passed* 4 *July*, 1815.)

who may bring action or prefer indictment.

440. They may bring actions and prefer indictments against any person who shall steal, take, or carry away, or buy, or receive any such goods, &c. and all such property stolen, &c. may be described to be the property of *the overseers for the time being generally*, without stating them by their names. *Ibid.* (*See Rex v. Went, Hereford Spring Assizes*, 1818, *manuscript crown cases. Addey v. Woolley*, 3 *Moore's Reports in the Common Pleas*, 22.)

Not to extend to local acts.

441. But not to extend to repeal the provisions contained in any local acts. *Ibid.*

Goods to be marked.

442. Overseers of the poor may cause all such goods, &c. to be marked or branded with the word "*Workhouse*," and such other mark or brand as they think proper (but such mark is not to be put on *any article of wearing apparel*, so as to be publicly visible on the outside thereof). And pawnbrokers, or any other person knowingly taking in pawn, buying, exchanging, or receiving any such goods, &c. (as

---

* Intituled "An act for improving the administration of criminal justice in England." (*Passed* 26 *May*, 1826.)

† Intituled "An act to prevent poor persons in workhouses from embezzling certain property provided for their use; to alter and amend so much of an act of the 36th year of his present majesty, as restrains justices of the peace from ordering relief to poor persons in certain cases for a longer period than one month at a time, and for other purposes therein mentioned relating to the poor."

mentioned in *pl.* 439), or any of the goods or materials carried into a workhouse to be wrought up or manufactured, or used by the poor there, or any of the goods or furniture of such house, or receiving or buying any of the provisions allotted to, or provided for the poor in such house, or aiding or assisting therein, or defacing the marks or brands, every offender shall forfeit any sum not exceeding 5*l.*, nor less than 20*s.*, upon conviction, either by the confession of the party or on the oath of *one* credible witness before any one justice of the peace: one moiety of the said forfeiture to be paid to the informer, and the other to the overseers for the use of the poor; and in case of non-payment of the penalty, the offender may be committed to the common gaol or house of correction, there to remain without bail or mainprize, for any time not exceeding *two* calendar months. *Ibid. s.* 2.

Persons absconding with workhouse property.

443. If any person shall desert, or run away from any workhouse, and carry away any cloths, linen, or other goods, or things as aforesaid, shall, on conviction, either by confession or by the oath of one credible witness before any justice of the peace, be committed as abovementioned (*pl.* 435) for the space of *three* calendar months. *Ibid.*

The mark proof of the right of property.

444. The mark or brand on any such articles is sufficient evidence, without further proof of the right of property. *Ibid.*

Misbehaviour by persons in a workhouse.

445. Any person maintained in any public workhouse, established for the relief, maintenance, and employment of the poor, refusing to work at any work, occupation, or employment, suited to his, her, or their age, strength, and capacity; or being guilty of drunkenness or other misbehaviour, on conviction thereof before any justice of the peace, shall be committed to the common gaol or house of correction without bail or mainprize, for any term not exceeding 21 days, and kept to hard labour. *Ibid.* 5.

Appeal to the next general or quarter sessions.

446. If any person shall be aggrieved by the judgment of the justice, he may appeal to the *next* general or quarter sessions on entering into a recognizance with *two* sufficient sureties, conditioned

personally to appear at the said sessions to try the appeal and abide the judgment of the court; and the justices at such sessions shall hear and determine the appeal in a summary way, and their determination shall be final. *Ibid. s.* 9.

Repeal of certain enactments in local poor acts, since the commencement of the reign of George the 1st (A. D. 1714).

447. All *enactments* and *provisions* contained in any act or acts of parliament, *since the commencement of the reign of king George the 1st*, whereby any poor person, *other* than such as *actually apply for and receive parish relief*, are compelled, or made compellable, to go or remain in any house of industry or workhouse; or whereby any such poor person may be *detained* or *kept* in any such house, at the discretion of the governors or directors thereof, or of the churchwardens or overseers of the poor, *after* such person *is capable* of maintaining himself; or whereby any poor person may be *compelled* to remain in any such house, *until the charges and expenses* to which any parish, &c. may have been put to, or become liable or chargeable for the maintenance or support of such person, or any of his or her family, shall be repaid or reimbursed *by the earnings or labour* of such poor person; or whereby any poor child is rendered liable to be apprenticed to any governor, director, or master, of any such house; or whereby any parish, &c. at a greater distance than *ten* miles from such house, &c. shall be hereafter authorized to become contributors to, or to take the benefit of any such house, &c. are authorized to *hire out* any poor person of full age, to contract or agree with any person *for the profit of the labour of such poor person*, are severally repealed. 56 *Geo.* 3. *c.* 129. [*Passed 1st July*, 1816.] *

Where a poor-house purchased by joint parishes is in a third parish.

448. A poor-house purchased under the statute 9 *Geo.* 1. *c.* 7. *s.* 4. by *joint* parishes in a third parish, and in this manner become the *perpetual property* of the *united* parishes, is to be considered

---

* Intituled "An act to repeal certain provisions in local acts, for the maintenance and management of the poor."

as part of those parishes to which it belongs, and not part of the parish in which it is legally situated. *Rex v. St. Peter and St. Paul in Bath, T.* 22 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 213. 1 *Bott,* 448. 2 *Nolan's Poor Laws,* 148. 333.

No spirituous liquors to be sold in workhouse.

449. No spirituous liquors shall be sold or used in any workhouse or house of entertainment of parish poor. *See the following placita,* 24 *Geo.* 2. *c.* 40.* *s.* 13. [*A.D.* 1750].

Master of workhouse selling or giving away spirits therein.

450. No licence to be granted for retailing spirits within any parish workhouse; and if any governor, master, or officer, of any parish workhouse shall sell, use, lend, or give away, or knowingly permit or suffer any spirits to be sold, used, lent, or given away in any workhouse, or brought into the same, *other than except such spirits as shall be prescribed or given by the prescription or direction of a regular physician, surgeon, or apothecary,* and to be supplied in pursuance of such prescription from the shop of some regular apothecary, such governor or other officer for every offence shall forfeit and lose 100*l.* for the first offence, and in case of a second conviction for the like offence, shall be deemed a forfeiture of his office. 6 *Geo.* 4. *c.* 80. *s.* 34. (*Passed* 27 *June,* 1825 †.)

---

* Intituled "An act for granting to his majesty an additional duty upon spirituous liquors, and upon licences for retailing the same, and for repealing the act of the 20th year of his present majesty, intituled 'An act for granting a duty to his majesty, to be paid by distillers upon licences to be taken out by them for retailing spirituous liquors; *and for the more effectually restraining the retailing* of distilled spirituous liquors; and for allowing a drawback upon the exportation of *British* made spirits; and that the parish of *St. Mary le Bow,* in the county of *Middlesex,* shall be under the inspection of the head office of excise.'"

† Intituled "An act to repeal duties payable in respect of spirits distilled in England, of licences

Spirituous liquors in a workhouse may be seized and destroyed.

451. Any justice of the peace, upon information upon oath that spirits are kept and disposed of in any parish workhouse, may enter and search, or authorize any constable or other peace officer to enter and search any workhouse, and if any spirits shall be found therein (except as aforesaid), the same may be seized and forthwith staved and destroyed by such peace officer or overseer of the poor. *Ibid. s.* 35.

Persons taking spirits into a workhouse may be arrested and taken before a justice.

452. Any person carrying or bringing, or *attempting* to endeavour to carry or bring any spirits (except as aforesaid), into any parish workhouse; the master or chief officer of the workhouse or his servants may arrest such person, and carry him before a justice of the peace, who is to hear and determine the offence in a *summary way*, and if by the oath of *one* credible witness the offenders shall be convicted, he shall forthwith be committed to prison or to the house of correction, there to be kept to hard labour for any term not exceeding *three* months. *Ibid. s.* 36.

Copy of the clauses relating to spirituous liquors to be hung up in workhouse.

453. The master or chief officer of every parish workhouse is to procure one or more copy or copies of the above three clauses (viz. 34. 35. 36. *pl.* 450. 451. 452.) either printed or written, to be hung up in one of the most conspicuous places of the workhouse, and renew the same from time to time, so that it may be always kept fair and legible, on pain of forfeiting 10*l.* for every wilful neglect, to be levied by the warrant of any justice of the peace where the workhouse is situated, to be granted on conviction in a *summary way* before such justice by the oath of *one* credible witness. And any justice of the peace may enter any such workhouse within his jurisdiction, and demand a sight of such copy so hung up, as aforesaid; and if the same shall not be *forthwith* shown

---

for distilling, rectifying, or compounding such spirits, and for the sale of spirits, and to impose other duties in lieu thereof, and to provide other regulations for the collection of the said duties, and for the sale of spirits, and for the warehousing of such spirits without payment of duty for exportation."

to him *so hung up*, fair and legible, he may immediately convict the said master or officer of such default, and so from time to time as often as he shall think fit. *Ibid. s.* 37.

As to Relief to Prisoners confined under Mesne *Process for Debt, in Gaols* not *County Gaols.*

Justices may order relief to prisoners in gaol for debt.

454. Any justice of the peace for the county, where there is a gaol, *not being a county gaol*, may order the overseers of the poor of the parish wherein such gaol is situated, to relieve any poor person confined therein for debt, who shall appear to such justice to be unable to support himself, and who shall have applied to the overseers for relief, not exceeding 6*d.* a day. 52 *Geo.* 3. *c.* 100,* *s.* 1, 2. (*Passed* 29*th July*, 1812.)

Examination of such persons may be taken on oath, and order of removal suspended.

455. The overseers of the poor, to whom such application shall be made for relief, if they doubt whether or not such poor person is legally settled in such parish, shall cause his examination to be taken on oath before one or more justices of the peace, as to the place of his last legal settlement, and to suspend the execution of the order of removal during the time of his confinement; which suspension, and the subsequent permission to execute it, shall be severally indorsed on the order of removal, and signed by such justices, or any other *two* justices of the county, &c. *Ibid. s.* 3.

Copy of the order and suspension to be served on the parish officers of the parish where the prisoner shall belong.

456. A copy of the order of removal, and of the order of suspension, as soon as may be, after the making thereof respectively, shall be served upon the overseers of the parish, &c. where the poor debtor shall be adjudged to be *legally* settled, who shall repay the expenses attending the pauper; and in case

---

* Intituled "An act to enable justices of the peace to order parochial relief to prisoners confined under mesne process for debt, in such gaols as are not county gaols."

of refusal to pay the same within 21 days after demanded and no notice of appeal given within that time, the sum may be levied by distress of the goods of the person refusing or neglecting to pay the same, and costs, not exceeding 40*s.* as the justice shall direct. *Ibid. s.* 4, 5.

Persons aggrieved may appeal if the sum ordered to be paid exceeds 5*l.*

457. But if the sum ordered to be paid on account of such costs and charges exceeds 5*l.* the party aggrieved may appeal to the *next general quarter sessions* for the county, &c. where such gaol is situated, as they may do, against an order for the removal of poor persons by any law now in being; and if the court of quarter sessions shall be of opinion, that the sum awarded is more than ought to have been directed to be paid, they may strike out the sum contained in the order, and insert such sum as they think ought to be paid; and in any such case, the amended order shall be carried into execution by the justice by whom the order was originally made, or either of them, *or** by such other justice or justices as the court shall direct.

Parish officers may appeal.

458. The overseers of the poor of the parish where such poor person shall be adjudged to be legally settled, may appeal against the order of removal to the *next* general quarter sessions of the county, &c. in which such gaol is situated, held after the service of the copy of the order of removal (*pl.* 456, *above,*) in case such copy shall have been served upon the overseers 21 days before the holding of such sessions. If the copy of such order shall not have been served 21 days before the holding of such *next* sessions, then the appeal may be to the *next* succeeding general quarter sessions; and the like proceeding may be had, as is usual in cases of appeal against orders of removal. *Ibid. s.* 6.

Order of removal and suspension not appealed against.

459. But if the order of removal and suspension is *not* appealed against, or if, upon appeal, the order shall be confirmed, the pauper shall be deemed, and taken to be, legally settled in the parish, &c. in

---

* The word *or* is omitted in the act.

which he shall be adjudged to be *legally settled*, by the order of removal. *Ibid.*

460. If the pauper has no legal settlement in *England* or *Wales*, then the allowance shall be paid out of the county rate. *Ibid. s.* 7. If no legal settlement in England.

461. Dangerous *lunatic* persons may be locked up, and two justices may, by warrant, order the constables, churchwardens, and overseers, to confine and chain any *lunatic*, if necessary, provided the place of the last legal settlement of such person is within the county or precinct where he was found; and if his settlement is not there, then he is to be sent to his settlement by a vagrant pass, and the reasonable charges of removing, keeping, maintaining, and curing such *lunatic* during his confinement is to be satisfied and paid (on proof on oath), by order of two justices, directed to the churchwardens and overseers, where any goods, chattels, lands, or tenements of the lunatic may be found; and the churchwardens, &c. may seize and sell so much of the goods, &c. and reserve so much of the rents of his lands and tenements, as shall be necessary to pay the same. 17 *Geo. 2. c.* 5. Dangerous lunatics may be confined. and goods, &c. sold to pay expenses.

462. The monies received under such order, must be accounted for at the *next* quarter sessions; but if the *lunatic* hath no more estates than sufficient to maintain his family (if he has a family), then the charges of his keeping, maintenance, and curing, to be paid by the parish in which he is settled, by the order of two justices. Monies received to be accounted for at the quarter sessions.

463. The provision of this act applies only to *vagrant lunatics*, and not to persons of rank and condition, whose relations, on application to the Court of Chancery, are capable of taking care of their persons and estates. The act only applies to vagrant lunatics.

464. On the application of the overseers, the justices may issue warrants for the conveyance of any *lunatic insane* person, *or dangerous idiot*, chargeable to the parish, to the county asylum, erected under this act; to be kept there till duly discharged; and an order by a magistrate is to be made on the parish to which such *lunatic*, &c. is chargeable for a Lunatics to be conveyed to the county asylum.

reasonable sum, to be ascertained by the convicting justice, for the maintenance, medicine, clothing, and cure of such *lunatic*, &c. 48 *Geo.* 3. *c.* 96.

Overseers to inform a justice of any insane person chargeable to the parish.

465. An overseer neglecting or delaying to inform such justice of any *insane* or *lunatic* person so chargeable to such parish, or to make application for a warrant against him within 7 days from the time of his knowledge of the fact, he shall forfeit not more than 10*l.* nor less than 40*s.*, to be levied by distress and sale of his goods, by warrant of two justices, on his own confession, or by the oath of *one* witness. *Ibid.*

If the settlement of lunatic is unknown.

466. If the settlement of the lunatic is not known, and he hath no estate to satisfy the charges of removing him to an asylum, or for his keep, maintenance, and cure, then the charges are to be paid by the treasurer of the county where such lunatic shall have been apprehended. *Ibid. s.* 20.

Justice of the peace may refuse to admit lunatic into the asylum.

467. A justice of the peace may refuse to admit a *lunatic* into the asylum, on stating his reasons for so doing to the overseer making the application; and persons aggrieved by such refusal may appeal to the quarter sessions, on giving ten days' notice, and the decision of the quarter sessions to be final. 51 *Geo.* 3. *c.* 79.

Certificate of a medical man to be produced to the justice.

468. Overseers, on making application to justices for the conveyance of lunatics, to produce a certificate from a medical man of the state and degree of lunacy of the person for whom they apply, and the justice may cause such *lunatic* to be visited by such medical man as he shall think fit, and may examine such medical man on oath, as to the degree of the malady of such *lunatic*, and may order a reasonable sum to be paid by the overseers to the medical man for his attendance. *Ibid. s.* 4.

On discharge of lunatic the expenses to be paid by his parish.

469. When any *lunatic* pauper is discharged from the asylum, the necessary expenses of his removal shall be paid by the parish in which he is settled, on the expenses being allowed by two justices acting in and for the county wherein the parish is situated.

Bastards born of lunatic in the

470. Bastards, born of any *lunatic* or *idiot* in such

asylum, do not gain any settlement in the parish where such asylum is situated, but are settled at the last legal settlement of their mother. *Ibid.* *s.* 4.

asylum follow their mother's settlement.

471. Justices of the peace may, at their petty sessions, issue their warrants to overseers to make a return of all *idiots* and *lunatics* within their respective parishes, to be verified on oath, and accompanied with the certificate of a medical man as to the state and condition of such *idiots* and *lunatics*; any overseer neglecting to make such return, to be fined as by *33 Geo.* 3. for neglect of duty; such lists to be laid before the general quarter sessions.

Overseers to make a return of all idiots and lunatics in their parish.

472. Whenever it shall appear to the justices, or the major part of them (not being less than seven), assembled at any general quarter sessions, or general annual sessions, that such *lunatic* asylum can accommodate more *lunatics* than the paupers within the districts for which such asylum shall have been built, such justices may make order for the admission of so many lunatics as they shall think expedient, not being paupers or criminals, or being paupers but belonging to any other county, or to any parish, &c. within the county by which such asylum shall have been built, which may be exempt from county rate of such county or counties, and which shall not have united with such county or counties, or contributed to the expense of such erection, under the following conditions, viz. No such *lunatic* to be admitted into the asylum without an order signed by one visiting justice, nor without a certificate of a medical man, certifying the lunacy of such patient; nor without an undertaking, signed by two substantial householders, or the minister and one churchwarden, or one overseer of the parish, within which such lunatic shall reside at the time of application, for the due payment of the weekly allowance for the maintenance and cure of such lunatic, as well as for the removal of such lunatic, within *three* days after due notice, given in writing by the governor, &c. by the order of one or more visiting justices, under a penalty of 50*l.*, to be recovered and applied as penalties

If lunatic asylum can accommodate more lunatics than the paupers within the district for which it was built, others may be admitted.

are directed by this or any other acts of parliament, passed for building and maintaining asylums for the reception of lunatic paupers; the weekly provision for lunatics (not being paupers) to be fixed by the visiting justices, at such rate as shall be sufficient to cover every expense liable to be incurred on account of such patient; and that in no case such weekly provision shall be fixed at a less sum than a sum exceeding by one-third the weekly sum paid at such time by the parishes within such district, for the maintenance of the patients belonging thereto, together with such extra charge for clothing and medicine, as may be incurred during the continuance of such patient in such asylum, under the sanction of the visiting justices. *Ibid. s.* 12.

Lunatics to be brought before justices by the overseers in order to be conveyed to a place of safety.

473. Upon it being made known to two or more justices, that a poor person chargeable to any parish, &c. is deemed *insane*, or a mischievous *idiot*, such justices may, by order under their hands and seals, require the overseers of the poor to cause the lunatic to be brought before them, and such justices may call to their assistance a medical man, at the expense of the parish; and on proof that the same person is a lunatic, it shall be lawful for the said justices, by order under their hands and seals, directed to the overseer of the poor, to cause the lunatic to be conveyed to and placed in some lunatic asylum with all care, where such asylum has been established, under the directions of 48 *Geo.* 3. *c.* 96, for the county or district of united counties within which the parish to which such poor person belongs is situate; but if no lunatic asylum, then such justices may order such poor person to be conveyed to some house duly licensed for insane persons; and such two justices, or any other two justices, may order the overseers to pay the charges of conveyance to such asylum or licensed house; and if conveyed to a lunatic asylum, then to order the payment of such weekly sum to the treasurer as shall be fixed by the visiting justices; and if to a licensed house, then for the payment of a reasonable sum weekly or monthly, to the keeper thereof: and over-

seers not to remove such poor person without an order of two justices, unless such person shall be discharged as cured. 59 *Geo.* 3. *c.* 127.

Certificate of a medical man to be delivered to the keeper of the asylum.

474. Overseer conveying pauper to asylum or licensed house, is required to deliver a certificate from the medical person so called to the assistance of the justices, to the keeper of such asylum or licensed house. *Ibid.*

Parish officers neglecting to give information of the state of lunatic paupers to some justice.

475. Overseer wilfully neglecting for *seven* days to give information of the state of such *lunatic* pauper to some justice of the peace within the county, shall for every offence forfeit not exceeding 10*l.* nor less than 40*s.* half to the informer and half to the poor, to be recovered by distress and sale of offender's goods, by warrant of two justices. *Ibid. s.* 2.

Relief to the Wives and Families of Militia-men.

Militia-men called out leaving a family.

476. Any person serving or enrolled as a non-commissioned officer or drummer, or as a balloted man or substitute, hired man, or volunteer, who shall, when embodied and called out *into actual service*, leave a family unable to support themselves, the overseers of the poor of the parish where such family shall dwell shall, by order of one justice, pay to such family a weekly allowance. 43 *Geo.* 3. *c.* 47.

Weekly allowance according to the price of labour.

477. The weekly allowance by this order must be according to the ordinary price of labour in husbandry within the county where the family dwells, by the following estimate, *viz.* any sum *not exceeding the price of one day's labour, nor less than one shilling for every child born in wedlock, and under ten years of age*, and for the wife of such militia-man (whether she have children or not), any sum not exceeding the *price of one day's labour, nor less than one shilling*, to be paid out of the poor's rate; and justices at a quarter sessions for the county may, from time to time, regulate the rate of allowance to be paid under this act, which regulation shall be binding until altered; but by 51 *Geo.* 3. *c.* 20. *s.* 20, no allowance shall be granted to the wives and families

of men raised after the passing of that act, but to such as are balloted.

Militia-man declaring at his enrolment that he had no wife.

478. No allowance to be paid to the wife of any militia-man, who at the time of his enrolment shall have fraudulently declared that he had no wife or family, or to any substitute, hired man, or volunteer, who shall have falsely declared at the time of his enrolment that he had only one child; provided that where the militia-man to whom such family shall belong shall undertake and make provision for the maintenance of his other children, to the satisfaction of any justice, to whom such application shall be made for relief, such justice may order the allowance to be paid in respect of the wife and one child under the age of ten years.

No allowance to be paid to wife until the husband has joined his regiment.

479. No allowance shall be paid to the wife or family of any militia-man until he joins the regiment to which he belongs, nor for a longer period than he shall continue embodied and in actual service, 43 *Geo.* 3. *c.* 47. *s.* 4; and it is by this act declared, That the allowance should not be made if the wife followed the regiment, or left her children, or departed from her home, except under certain restrictions. But the stat. 53 *Geo.* 3. *c.* 81, repeals so much of the last mentioned act, and enacts—That no wife or family of any militia-man entitled to relief shall forfeit such claim to relief by reason of her having followed, accompanied, or been with her husband with the regiment in which he shall serve, or by reason of her leaving her children or departing from home. *S.* 1.

Nor to the family of non-commissioned officer if reduced to the ranks.

480. No allowance to be paid to the family of any non-commissioned officer or drummer, reduced for misconduct to the ranks, such reduction being certified by the commanding officer or adjutant to the clerk of the general meeting, and by him to the treasurer of the county, in the militia of which such person shall serve, and by the treasurer to the overseers of the parish in which such family shall dwell; and such allowance to cease from the time of the reduction being so certified to the overseers. 43 *Geo.* 3. *c.* 47. *s.* 6.

481 No allowance to be given to the family of any substitute, hired man, or volunteer, who marries after or during the time of his being called out to actual service, unless such marriage takes place with the consent of the commanding officer of the regiment, who shall grant a certificate of such consent. *S.* 7. This last clause is rendered nugatory by the 20th section of 51 *Geo.* 3. *c.* 20, which confines the allowance to the wives and families of balloted men.

Nor to the family of any substitute, &c. who marries after being called out.

482. The families of non-commissioned officers, drummers, balloted men, or of substitutes, hired men, or volunteers, not to be removable, or sent to any workhouse, or poorhouse, in consequence of receiving such allowances, nor shall any persons whose families receive such allowances be deprived of their legal settlement elsewhere. *S.* 8.

The families of militia-men not to be sent to the poor-house.

483. Upon this clause of the act it is necessary to make some observations: suppose a very possible case, and one of frequent occurrence, viz. that from sickness or infirmity, the allowance ordered by the justice, which is by the act restricted, is insufficient to meet the necessities of the persons so entitled to such allowances: how are the overseers to be reimbursed for such additional relief which they may be disposed to grant, and which they are bound to administer? It seems reasonable that if further relief is required than allowed by the act, the parties are in the situation of ordinary paupers not settled in the parish where they reside, and consequently liable to be removed by an order of two magistrates in the usual form; if this is not the case, the overseers of the parish where the family reside must lose the additional relief granted by them, as no power is given to the magistrate by the act to grant a further allowance than the ordinary price of one day's labour to each person: nor can the overseers of the parish to which the militia-man belongs be compelled to reimburse any further sum paid to them beyond the stipulated allowance.

Observations on the act.

484. The allowance to a family of a non-commissioned officer or drummer to be repaid to the

Allowances to be repaid to the parish officers by county treasurer.

overseer who relieves them by the treasurer of the county in which the parish is situated.

Militia-man's family residing in another parish.

485. If the militia-man's family reside in any other parish than that for which he shall serve, the justice who makes the order for the relief of such family shall certify the same under his hand, and direct the overseers of the parish for which such militia-man shall serve to reimburse the money so paid to the overseers who shall have advanced the same. 43 *Geo.* 3. *c.* 47. *s.* 14.

Parish officers may demand payment from the treasurer of the county.

486. If by reason of the distance of any parish in which the allowance shall be made to the family of any militia-man serving for any other parish from such other parish where the same shall be situate in any other county, and the overseers entitled to the reimbursement of such allowance cannot conveniently procure repayment from the overseers of the parish for which such militia-man shall have served, or be serving, such overseers may demand repayment of such allowances from the treasurer of the county in which the parish where such allowances are granted is situated, on production of an order or certificate of the justices.

The accounts of allowances to be made up every year.

487. The accounts of allowances in respect whereof any reimbursement is directed by the act, must be made up at the end of every succeeding six months, or a shorter period from the time of first commencing the payment, and shall be signed by the justice granting the certificate of reimbursement, or by some other justice of the county, within one month after the respective periods to which time such accounts shall be made up, and the money due shall (as soon as it can be done) be demanded of the overseers of the poor, or treasurers, required to make the reimbursement; and no such sum shall be demandable, unless the same shall have been first certified, within one month as aforesaid, and delivered to such overseer or treasurer, by whom the reimbursement is to be paid, within three months after such certificate granted.

If family of militia-man in actual service becomes

488. If the family of any militia-man, embodied and in actual service, shall become chargeable in respect

of a greater number than his wife and three children under the respective ages of ten years, the overseers of such parish for which such militia-man shall serve, or in which his family shall reside, may provide another fit and able man, between 18 and 35 years of age (and having no wife, or any child under ten years old), to serve in his stead; and upon such man being duly approved, sworn, and enrolled, the colonel or commanding officer may and shall discharge the man in whose stead such other person shall be so sworn in and enrolled; but no private to be discharged except between the first day of November and the twenty-fifth day of March.

chargeable, overseers may provide a substitute.

489. All payments made by overseers under the act 43 *Geo.* 3. *c.* 47, to be allowed and passed in their respective accounts, in the same manner as other expenses incurred on account of the militia; and overseers refusing, on demand, to pay, in pursuance of any order of a justice, to forfeit 5*l.* to be recovered on the oath of one witness, or by confession before the justice making the order, or any other justice of the county; such penalty to be levied by distress and sale of the goods of the offender.

Payments made by overseers to be allowed in their accounts.

490. The provisions of this act, as far as regards the allowances to militia-men's wives and families, to extend to all places having separate overseers, and maintaining their poor separately, and to all parishes united for the purposes of balloting for the militia, as well as to all other parishes, &c.

The provisions of the act to extend to all places having separate overseers.

491. In case any balloted man shall not possess an estate in land, goods, or money of the full value of 500*l.* and shall make oath of the fact, and such person shall have been approved, sworn, and enrolled, or shall provide a fit and proper substitute, who shall be approved, sworn, and enrolled, the churchwardens and overseers of the parish for which he shall be so balloted, shall, on receiving an order, under the hands of two deputy-lieutenants, within the subdivision wherein such parish lies, pay to such person so chosen any sum, not exceeding half the price then paid for a volunteer or substitute, in the county where such person was chosen. 46 *Geo.* 3. *c.* 140.

Balloted man not worth 500*l.* either enrolled or finding a substitute, the parish to pay to the person chosen not exceeding the price for a volunteer or substitute.

Parish officers refusing to pay.

492. And if any churchwarden or overseer shall refuse or neglect to pay such money on demand and production of the order, he shall forfeit 10*l.*, half of which sum to be paid to the person so chosen by ballot, in lieu or in part of the sum ordered to be paid him; but if the balloted man shall be within one month disapproved of and discharged, the said sum to be paid to the next person chosen by ballot to serve in his stead; and if any substitute be disapproved and discharged, then no money to be paid to the balloted man, unless he shall serve himself, or find another substitute who shall be approved. *Ibid.* *s.* 122.

Assignment of Paupers' Pensions, &c. in Discharge of the Parish.

Pensions of persons superannuated from the army, navy, or marines, or ordnance, may be assigned to indemnify parishes for advances they may make to them.

493. When any person in receipt of any pension, superannuation, or other allowance from the army, navy, marines, or ordnance, shall apply for parish relief for himself or his wife or family, the churchwardens and overseers may require, before such relief is granted, the party applying to assign such pension, &c. who shall retain for the use of the parish so much as shall have been advanced for the relief of such pensioner, and also at the request of such pensioner may advance weekly any sum not exceeding the rate of the pension, to be repaid out of the next quarterly payment, § 30; and such assignment, attested by one justice, shall be transmitted to the proper paymaster of the pension one month previous to the time of payment, who is authorized to pay the same to the churchwardens or overseers; any dispute or question which may arise between the pensioner and parish officers to be settled in a summary way by one justice: assignments to be void if pensioner die before the day upon which the pension becomes payable. *Ibid.* Any such pensioner leaving or suffering his wife or family to become chargeable, two justices, on complaint of the parish officers, on oath, by order under their hands and seals, may direct that the next

payment to become due of such pension shall be made to the churchwardens and overseers, to be applied in discharge of such monies as shall be expended in support of the pensioner's family. 59 *Geo.* 3. *c.* 12. *s.* 31.

Owners of ships to pay wages of seamen to the overseers for the maintenance of their families.

494. Where the wife or family of any seaman on any voyage (not being his majesty's service), shall, during his absence, become chargeable to any parish, two justices, on complaint on oath by the churchwardens and overseers, by order under their hands and seals, may direct the acting owner or owners, ship's husband or agent, to pay out of the wages due or to become due to such seaman, so much as shall have been necessarily expended for the maintenance of his family, and the owner, &c. shall pay the same accordingly to the churchwardens and overseers, and in default the same may be recovered in the same way as the poor's rates are recoverable; but owners are not compelled to pay until the ship's voyage is completed, nor beyond the sum which shall be then actually due to such seaman.

BASTARDS.

Of securing the reputed Father and indemnifying the Parish.

Securing the reputed father and indemnifying the parish.

So much of this act as is within the brackets is repealed.

495. "If any single woman delivered of a bastard child, which shall be, or likely to become chargeable to any parish or extra-parochial place, [or shall declare herself to be with child, and that such child is likely to be born a bastard, and to be chargeable to any parish or extra-parochial place, and shall] in [either of] such cases (*see the next pl.*) in an examination to be taken in writing upon oath (*pl.* 507. *p.* 143, *post*), before *one* or more justice or justices of the peace of any county, riding, division, city, liberty, or town corporate, wherein such parish

or place shall lie, charge any person with having gotten her with child, it shall be lawful for such justice or justices, on application by the overseers of the poor of such parish or any one of them, or by any substantial householder of such extra-parochial place, to issue out his or their warrant for the immediate apprehension of such person so charged as aforesaid *, and for bringing the offender before him or them, or any other justices of the peace for such county, &c. and the justice or justices before whom such person shall be brought are authorized and required to commit the offender to the common gaol or house of correction, unless he gives security to indemnify the parish or place, or enters into a recognizance with sufficient surety upon condition to appear at the next general or general quarter sessions for the county, &c., to abide and perform such order or orders as shall be made in pursuance of the 18*th of Eliz. c.* 3 †, concerning bastards begotten and born out of lawful matrimony." 6 *Geo.* 2. *c.* 31 ‡. *s.* 1.

Part of the act repealed.

496. But so much of the above act within the brackets as authorizes justices before whom the reputed father of the child shall be brought, *in cases where the woman has not been delivered,* to commit the reputed father to the common gaol, &c. unless he gives security to indemnify the parish, &c. is repealed by 49 *Geo.* 3. *c.* 68. *s.* 6.

---

* It has been decided that a private soldier might be committed upon such a charge, and that the charge itself was of a criminal nature. *Rex v. Bowen, 5 Term Reports,* 157.

† Intituled "An act for setting the poor to work, and for avoiding idleness."

‡ Intituled "An act for the relief of parishes and other places from such charges as may arise from bastard children born within the same."

§ Intituled "An act to explain and amend the law of bastardy as far as relates to indemnifying parishes in respect thereof." (Passed 3d June, 1809.)

497. It appears by this statute that the same power is given where the child is born in an *extra-parochial* place as in a *parish*, but *see* 1 *Bott*, 476.

498. " If the woman so charging as aforesaid any such person shall die, or be married before she shall be delivered, or if she shall miscarry, or shall appear not to have been with child at the time of her examination, then such person shall be discharged from his recognizance at the next general or general quarter sessions, or immediately released out of custody by the warrant under hand and seal of any one justice residing in or near the limits where such parish or place shall lie." 6 *Geo.* 2. *c.* 31. *s.* 2.

If a woman dies or marries before she is delivered, or if she miscarries.

499. It also appears that the above *section* 2 is also virtually repealed, as it applies only to cases of commitments where the woman has *not been delivered.* 49 *Geo.* 3. *c.* 68. *s.* 6.

This section 2 also virtually repealed.

500. Upon application made by any person who shall be committed as aforesaid (*pl.* 495), or by any person in his behalf to any justice residing in or near the limits where such parish or place shall lie, such justice is required to summon the overseer or overseers of the poor of such parish or place, or one or more of the substantial householders of such extra-parochial place, to appear before him to show cause why such person should not be discharged; and if no order shall appear to have been made in pursuance of the act of 18 *of Eliz. within six weeks after such woman shall have been delivered**, such justice shall discharge him from his imprisonment. 6 *Geo.* 2. *c.* 31. *s.* 3.

Upon the application of any one committed, the parish officers may be summoned to show cause why he should not be discharged.

If no order is made in six weeks.

501. By this clause it seems that where no order has been made "*within six weeks after such woman shall have been delivered,*" the reputed father ought not to be committed, or if in prison ought to be dis-

---

* But query—was not this section intended to be repealed by the 6th section of 49 Geo. 3. c. 68? *See Raithby's Edition of the Statutes, note to Stat.* 6 *Geo.* 2. *c.* 31. *s.* 3. *and* 305. *n.* (*a.*)

charged, and that the parish having no relief under this act, must resort to the relief afforded them by 18 *Eliz. c.* 3.

Justices not to send for a woman to be examined until one month after her delivery.

502. It shall not be lawful for any justice or justices of the peace to send for any woman before she shall be delivered, *and one month after*, in order to her being examined as to her pregnancy, or supposed pregnancy, or *to compel* any woman, *before* she shall be delivered, to answer any questions relating to her pregnancy. 6 *Geo.* 2. *c.* 31. *s.* 4.

A child cannot be deemed illegitimate before it is born.

503. On an indictment for secreting a woman big with a bastard child, to prevent her giving evidence about the reputed father, the court, on demurrer, held, that judgment must be for the defendant, for the child could not be illegitimate before it was born, *there always being a possibility that it may be born in lawful wedlock. Rex v. Chandler,* 1 *Strange's Reports,* 612. 2 *Lord Raymond's Reports,* 1368.

An unmarried woman with child to be deemed actually chargeable.

504. But every unmarried woman with child shall be deemed a person actually chargeable to the parish, &c. where she shall inhabit, and may be removed as such to the place of her last legal settlement: and if as a person chargeable she shall refuse to come, a warrant may be granted to bring her before two justices, who may take her examination and remove her. 35 *Geo.* 3. *c.* 101 *. *s.* 6. (*See title "Poor Removal—who may be removed," post.*)

Such person refusing to be examined may be committed.

505. If any such person shall refuse to answer proper questions put to her in the course of her examination, the justices may commit her until she answers. *Ibid. s.* 1. (*See Rex v. Jackson and another, title "Poor Removal—who may be removed," post.*)

For proving chargeability she may be compelled to answer questions.

506. For the purpose of proving chargeability, she might be compelled to answer such questions as

---

* Intituled "An act to prevent the removal of poor persons until they become actually chargeable." (Passed 22d June, 1795, commonly called Mr. East's act.)

must of necessity be asked for the purpose of ascertaining the facts of her being an unmarried woman, and pregnant, without requiring the name of the reputed father *.

In case of non-delivery, person charged on oath with having gotten any single woman with child may be immediately apprehended, &c.

507. "If any single woman shall declare herself to be with child, and that such child is likely to be born a bastard, and to be chargeable to any parish, township, or extra-parochial place, in an examination to be taken in writing upon oath before any justice of the peace of any county, riding, &c. (*as in p.* 139, *pl.* 495, *ante*), shall lie, charge any person with having gotten her with child, it shall be lawful for such justice, upon application by the overseer of the poor, or by any substantial householder of such parochial place, to issue his warrant for the immediate apprehending such person so charged as aforesaid, and for bringing him before such justice, or before any other justice of the county, &c., and the justice before whom such person shall be brought, having authority in this behalf, is authorized and required to commit the offender to the common gaol or house of correction of such county, &c., unless he shall give security to indemnify the parish or place, or shall enter into a recognizance with sufficient sureties upon condition to appear at the next general or general quarter sessions to [and] abide and perform such order or orders as shall '*then* 'be made† in pursuance of the said act

---

* *See Rex v. Tibbenham, and Rex v. Alveley, title "Removal," post.*

† There was an oversight in the introduction of the word *then*, which confines the condition of the recognizance to orders made at the sessions. The recognizance directed by the *6th Geo.* 2. was general (*p.* 139, *pl.* 495, *ante*), to abide such order as should be made in pursuance of the statute of the *18th Eliz.*, and which of course extended to orders made by justices out of sessions. *Evans's Collection of Statutes, vol.* 7, *p.* 85. (*n.* 1.) *Edit.* 1823.

Unless one justice shall certify the non-delivery, or of delivery within one month before the sessions.

of 18 *Eliz.**, unless one such justice as aforesaid shall have certified in writing under his hand to such general or general quarter sessions of the peace, that it had been proved before him upon the oath of one credible witness, that such single woman had not been then delivered, or had been delivered within one month only previous to the day on which such general or general quarter sessions shall be holden,

Unless two justices shall certify an order made, or that an order was not requisite.

or unless two justices of the peace of such county, &c. shall have certified in writing under their hands to the next, or where such woman shall not have been delivered as aforesaid, then to the immediately subsequent general or general quarter sessions, that an order of filiation had been already made on the person so charged, or that such order was not then requisite to be made on account of the death of the child born a bastard, or for other like sufficient

The recognizance may be respited by the sessions.

reason, in each of which cases firstly before-mentioned, it shall be lawful for the justices assembled in their general or general quarter sessions to respite such recognizance to the then next general or general quarter sessions for such county, &c. without requiring the personal attendance of the putative father so bound, or that of his surety or sureties; and in either of the said two last-mentioned cases it shall be lawful for such justices so assembled wholly to discharge such recognizance. 49 *Geo.* 3. *c.* 68. *s.* 2.

The warrant of commitment to be in the disjunctive.

508. It seems that the warrant of such commitment should be in the disjunctive. *Rex v. Eve, Shower's Reports,* 250. 1 *Bott,* 471.

As to the Bond of Indemnity to the Parish.

Any justice may commit, unless security is given and recognizance entered into.

509. The foregoing statutes (6 *Geo.* 2. *c.* 31, *and* 49 *Geo.* 3. *c.* 68. *s.* 2.) authorize the justice before

---

* The words between the brackets are the same as *s.* 1 of 6 *Geo.* 2. *c.* 31; and there appears to be an omission of the word "and" to abide, &c. in this act.

whom the party is brought to commit him, unless he gives *security to indemnify the parish*, or enters into recognizance to appear at the sessions. 6 *Geo.* 2. *c.* 31. (*pl.* 495, *p.* 139, *ante*,) *and* 49 *Geo.* 3. *c.* 68. *s.* 2. (*pl.* 506, *p.* 144, *ante*.)

Securities given for indemnifying parishes to be vested in the overseers for the time being.

510. Securities for indemnifying any district, parish, township, or hamlet, for the maintenance of any bastard child, or any expenses in any ways occasioned to the district, &c. by reason of the birth or support of any such child born within such district, &c. or chargeable thereto, shall be vested in the overseers of the poor to sue as by their description of overseers, and any action so commenced shall not abate by reason of any change of overseers pending the suit, but shall be proceeded in by the overseers for the time, as if no such change had taken place. 54 *Geo.* 3. *c.* 170*. *s.* 8.

Inhabitants may be witnesses for or against their parishes in order to recover charges of maintenance of bastard children.

511. Inhabitants, whether rated or liable to be rated to the rates or cesses of the district, parish, &c. are competent to be witnesses for and against their parishes for the recovery of charges for the maintenance of bastard children chargeable or likely to become chargeable to their parishes, &c. *Ibid. s.* 9.

Parish officers should consider whether a bond or an order is the most convenient for them to take.

512. It is worthy consideration of parish officers whether a bond or an order of justices is the most convenient for the parish—the bond binds the executors of the obligor, and may be recovered upon after his death, whereas the order, though the course of carrying it into execution is expeditious and simple, yet if the man dies, the order dies with him.

An action on a bond to indemnify the parish must be brought in the names of the overseers for the *time being*.

513. An action on a bond to indemnify the parish against the expenses of a bastard child must be brought in the names of the overseers *for the time being*, and not of those to whom the bond was given. *Addey v. Worthy, H.* 59 *Geo.* 3. 3 *Moore's Common Pleas Reports*, 21. 8 *Taunton's Reports*, 591.

---

* Intituled "An act to repeal certain provisions in local acts for the maintenance and regulation of the poor, and to make other provisions in relation thereto." (Passed 30th July, 1814.)

Obligor on a bastardy bond becoming bankrupt.

514. An obligor on a bastardy bond, after the bond had been forfeited, being bankrupt, and obtaining certificate, it was held that the parish officers were not thereby precluded from recovering *upon the bond* for expenses incurred subsequently to the bankruptcy. *The Overseers of St. Martin in the Fields v. Warren, E.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 491. 2 *Starkie's Nisi Prius,* 188.

A receipt for a promissory note may be given in evidence (without having an agreement stamp), whether the consideration is prospective or executory.

515. A receipt for a promissory note expressing a prospective and executory consideration on which money thereby secured is to be paid, may be given in evidence as a receipt on a stamp, and does *not* require *an agreement* stamp as evidence of a contract. *Watkins v. Hewlett, E.* 59 *Geo.* 3. 1 *Broderip and Bingham's Reports,* 1. 3 *Moore's Common Pleas Reports,* 211.

Where the putative father pays a sum of money before the birth of the child, he may recover back what remains unexpended after the birth and death of the child.

516. If the putative father of a bastard child pay, before its birth, *a fixed sum* to the parish officers to discharge him of all future responsibility for the maintenance of the child, *after the birth and death of the child, he may recover back such part of the money as remains unexpended. Ibid. and see Stanisforth v. Staggs,* 1 *Campbell's Nisi Prius Reports,* 298 (*n.*), *and Rex v. Martin,* 2 *Campbell,* 268, *recited in Watkins v. Hewlett, above. See Wilde v. Griffin,* 5 *Espinasse's Nisi Prius Reports,* 142. *Hodgson v. Williams,* 6 *Espinasse,* 29.

The parties receiving the money cannot discharge themselves by paying it over.

517. The parties receiving the money cannot discharge themselves over to their successors in office. *Townson v. Wilson,* 1 *Campbell's Reports,* 596.

Parish officers can recover no more than the money *actually* expended.

518. If an action is brought by parish officers on a bond to maintain a bastard child, no more can be received than the money *actually* expended. *Kirk v. Strickland, Douglas's Reports,* 449.

Overseers can only take security to *indemnify* the parish.

519. The statute 6 *Geo.* 2. *c.* 31. (*see pl.* 495, *p.* 139, *ante,*) only authorizes parish officers to take security from the putative father to indemnify the parish; therefore where they had taken a promissory note absolute for a certain sum, to which, on an action being brought, there was a plea of tender of a lesser sum as the amount of the damage *actually* sustained by

the parish, the issue upon which was found for the defendant, it was held that the parish could not recover more. *Cole v. Gower, H.* 45 *Geo.* 3. 6 *East's Reports,* 110; *and see the Overseers of St. Martin in the Fields v. Warren.* 1 *Barnewall and Alderson's Reports,* 491.

Proceedings may be stayed on payment of the penalty and costs.

520. The court of K. B. will stay the proceedings in an action on a bastardy bond on the payment of the penalty and costs.

No more than the whole penalty of the bond can be recovered.

521. On an action for a single breach of the condition of a bastardy bond, no more than the whole penalty of the bond can be recovered; for the bond ascertains the damage by the consent of all parties, and therefore the penalty cannot remain in force to answer *subsequent breaches. Brangwin v. Perrot,* 2 *Blackstone's Reports,* 1190; *and see Wilde v. Clarkson,* 6 *Term Reports,* 308, *where in a similar case the court ordered satisfaction to be entered on the record; and also in Strutt and another v. Proctor, E.* 56 *Geo.* 3. 2 *Marshall's Reports in the Common Pleas,* 226. *The court stayed the proceedings on the payment of the penalty and costs.*

A voluntary bond conditioned for the payment of a sum certain every three months is good.

522. Where the putative father of a bastard child gave a voluntary bond, and not under the compulsion of the 6 *Geo.* 2. *c.* 31. to the parish officers, conditioned for the payment of a sum certain every three months until the child should be deemed capable of providing for herself, it was held that such bond was good, and the condition sufficiently certain. *Middleham v. Bellarby,* 1 *Maule and Selwyn's Reports,* 310.

A bond to pay a weekly sum so long as the child is chargeable is not illegal.

523. A bond conditioned for the payment to the overseers of the poor of a certain weekly sum so long as a bastard child shall continue chargeable, *is not illegal. Strangeways v. Robinson and another, T.* 1812. 4 *Taunton's Reports,* 498.

No order necessary to enable parish officers to recover on a bastardy bond.

524. Overseers do not require an order of maintenance to recover on a bond given to indemnify the parish. *Hays v. Bryant,* 1 *H. Blackstone's Reports,* 253.

The mother of a bastard child removing from the indemnified parish before the birth of the child.

525. Where the mother of a bastard child removes from the parish indemnified by bond before the child is born, to enable the parish officers to recover on

the bond, it must appear that the expense was not incurred *voluntarily*, but in the discharge of a legal obligation. *Simpson v. Johnson, M.* 19 *Geo.* 3. *Douglas's Reports*, 7.

As to the Order of Filiation.

Two justices to make order as well for the punishment of the mother and reputed father, as for the relief of the parish.

526. Two justices of the peace (one of the *quorum*) *in* or *next* unto the limits (*see p.* 152, *pl.* 537, *post*,) where the parish church is, within which parish a bastard child shall be born (upon examination of the cause or circumstance), shall and may, by their discretion (*see p.* 153, *pl.* 540, *post*,) take order, as well for the *punishment of the mother and reputed father* of such bastard child, as also *for the relief of every such parish* (*see p.* 158, *pl.* 573, *post*,) in part or in all (*see p.* 158, *pl.* 574, *post*,) and shall and may likewise, by the like discretion, *take order*, (*see p.* 153, *pl.* 543, *post*,) for the keeping of every such bastard child, by charging (*see p.* 154, *pl.* 548, *post*,) such mother or reputed father with the payment of money weekly (*see p.* 159, *pl.* 575, *post*,) or other sustentation (*see p.* 154, *pl.* 551, *post*,) for the relief of such child, as they think meet and convenient. 18 *Eliz. c.* 3. *s.* 2.

Query.—Whether the putative father may take the child and provide for it himself.

After order made and default, commitment, except security is given to perform the order, and abide the order made at the sessions.

527. If, after the order by such justices, made and subscribed under their hands, any of the said persons, (that is to say), the mother or reputed father, upon notice thereof, shall not, for their part, observe and perform the said order, then every such party making default, to be committed (*see p.* 154, *pl.* 552, *post*,) to ward to the common gaol, there to remain without bail or mainprize, except he, she, or they shall put in sufficient surety to perform the order, or else personally to appear at the next general sessions of the peace, to be held in the county where the order shall be taken, and also to abide such order as the court shall take in their behalf (if they shall take any), and if the court shall take no other order, then to abide and perform the order before made. *Ibid.*

Order of the parish sessions conclusive.

528. An order of two justices, under the 18 *Eliz. c.* 3. *s.* 2. to A. to keep a bastard child, of

which he was stated in the order to be the reputed father, on his appeal to the *next quarter sessions* he was discharged, and the order quashed. Afterwards, at another quarter sessions, the matter was re-examined, it was ordered according to the first order; for non-performance of the second order, he was committed, and sued out a *habeas corpus*. All these facts being stated on the return, the *King's Bench* held that he, being discharged at the *next* sessions to which he appealed, according to the 18 *Eliz. c.* 3. the order in the first sessions was conclusive, and that in the last merely void, nor was the case aided by the 3 *Car.* 1. *c.* 4. *Pridgeon's Case, Croke's Reports in the Time of Charles.*

The sessions have original jurisdiction in cases of bastardy.

529. All justices of the peace, within their several limits and precincts, and in their several sessions, may do and execute all things concerning that part of the 18 *Eliz. c.* 3. that, being justices of the peace in the several counties, are by the said statute limited to be done*. 3 *Car.* 1. *c.* 4.† *s.* 15.

Power to make an order of filiation first given by 18 Eliz. c. 3.

530. The power of *justices* to make an order of filiation and maintenance is first given by the 18*th* of *Eliz. c.* 3. The power of the *sessions* to make such an order is first given by 3 *Car.* 1. *c.* 4. *s.* 15. and that act gives the sessions the like powers to those conferred by 18 *Eliz.* on justices out of sessions.

Reputed father of bastard child chargeable with the expenses incident to the birth

531. The provision of the 18 *Eliz. c.* 3. being found inadequate to the purpose of indemnifying parishes against the expense of apprehending and

---

* Under the authority of this act, the sessions have original jurisdiction in cases of bastardy. *Slater's Case, Croke's Reports in the Time of Charles,* 470. *Rex v. Greaves, Douglas's Reports,* 632. 1 *Bott,* 509, in which case the original jurisdiction of the sessions to make orders in bastardy was recognized, and several cases cited, to show that the statute gives such jurisdiction.

† Intituled "An act for the continuance and repeal of divers statutes."

and costs of apprehending and order of filiation.

suing the reputed father, and of the order of filiation, &c. it was enacted, "*That every person who shall hereafter* (3*d June*, 1809) *be adjudged* to be the reputed father of any bastard child or children, shall be chargeable with, and liable to the payment of all reasonable charges and expenses incident to the birth, and to the payment of the reasonable costs of apprehending and suing such reputed father, and also the payment of the costs of the order of filiation, such costs of apprehending, suing the father, and the order of filiation, not to exceed 10*l.* (*see p.* 159, *pl.* 576, *post*,) and such expenses and costs to be ascertained on oath before the justices making such order of filiation." 49 *Geo.* 3. *c.* 68. *s.* 1.*

For the maintenance of bastard children.

532. If any reputed father or mother of a bastard child or children, on whom any order of filiation or maintenance shall be made by the sessions, or by *two justices*, and confirmed by the sessions, or against which no appeal shall have been made (*see p.* 152, *pl.* 535, *post*,) shall neglect or refuse to pay the money which he or she shall have been ordered to pay towards the maintenance or other sustentation, for the relief of any such bastard child or children, by any such order, it shall be lawful for *any* justice of the peace of the county, &c. in which such reputed father or mother shall happen to be, upon complaint † made by any one of the overseers of the place, liable to the maintenance or support of such bastard child, or where such child shall then be, and on proof on oath of such order, for the payment of such sum or sums of money, and of such sum or sums of money being unpaid, and of a demand of

---

* For the title of this act, *see p.* 140, (*n.* §.)

† The complaint may be made before one justice, and a warrant issued by him to bring the party before *two or more* justices, in order to hear and determine the complaint, &c. 3 *Geo.* 4. *c.* 23. *s.* 2. intituled "An act to facilitate summary proceedings before justices of the peace, and others."

payment having been made, and a refusal to pay the same, or that such reputed father or such mother hath left his or her usual place of abode, and hath avoided a demand thereof being made by such overseer; to issue his warrant * to apprehend such reputed father or such mother, and to bring him or her before such justice, or any other justice of the peace of the same county, &c. to answer such complaint. 49 *Geo.* 3. *c.* 68. *s.* 3.

533. If the reputed father or mother shall not pay such sum or sums of money as shall appear to the said justice before whom such reputed father or such mother shall be brought to be due and unpaid, or shall not show to such justice some reasonable and sufficient cause for not so doing, it shall be lawful for such justice, and the said justice is required to commit such reputed father or such mother to the public house of correction or common gaol of the said county [to be kept to hard labour for the space of three months, unless such reputed father or such mother shall, before the expiration of the said three months, pay or cause to be paid to one of the overseers of the poor of the parish, &c. on whose behalf such complaint was made, the said sum or sums of money so due and unpaid as aforesaid], and so from time to time, and as often as such reputed father or such mother shall, in manner aforesaid, neglect or refuse to pay any other sum or sums of money that shall afterwards become due, by virtue of, and under such other order, after the expiration of a discharge from any such former imprisonment as aforesaid. *Ibid.*

Reputed father not paying the sum ordered by the justice, and shall be due and unpaid.

The warrant of commitment must follow the words of the statute as near as possible.

534. A warrant for the commitment of the putative father of a bastard child, until he should pay a sum due for the maintenance of the child and legal accustomed fees, *or until he should be otherwise delivered by due course of law*, is bad, the magistrate

The warrant of commitment of the putative father.

---

* But a *summons* should be issued in the first instance, per Lord Ellenborough. *Rex v. Fulham and Martyr*, 13 *East's Reports*, 55.

not being authorised (by the 49 *Geo.* 3. *c.* 68. *s.* 3.) to make such a warrant. *Robson v. Spearman and another, E.* 1 *Geo.* 4. 3 *Barnewall and Alderson's Reports*, 493.

Where an order of filiation is made, and the time for appeal is gone by.

535. Where an order of filiation is made, and the time for appeal is gone by, it cannot be enforced by commitment, under the 18 *Eliz. c.* 3, for refusal to comply with it; but the magistrate must proceed under the 49 *Geo.* 3. *c.* 68. *s.* 3. (*p.* 151, *pl.* 533, *ante*,) for commitment for three months, this being the third case mentioned in the 49 *Geo.* 3. *c.* 68. *s.* 3. (*see p.* 150, *pl.* 532, *ante*,) that is to say, "*an order against which no appeal has been made.*" *Ex parte Addison*, 1822. 1 *Barnewall and Cresswell's Reports*, 87.

The charges, costs, and expenses subject to the discretion of the sessions.

536. All such charges, expenses, and costs shall be wholly subject to the discretion of the *justices or court of quarter sessions*, who shall make such order of filiation; and the justices, or court of quarter sessions, if they think fit, may allow and order payment of the whole, or any part thereof, provided the costs of apprehending and securing the reputed father, and of the order of filiation, shall not *in any case exceed* 10*l.** 49 *Geo.* 3. *c.* 68. *s.* 4. and for securing the due payment of the same, after such allowance and order as aforesaid, all and every the powers, authorities, provisions, clauses, matters, and things contained in the 18 *Eliz. c.* 3, (*see p.* 148, *pl.* 526, *ante*,) concerning bastards, shall be respectively observed, used, and practised in the execution of this act. 49 *Geo.* 3. *c.* 68. *s.* 4.

The words in the 18 Eliz. "in or near the limits," are only directory.

537. The words of the 18 *Eliz. c.* 3. *s.* 2. (*see p.* 148, *pl.* 526. *ante*,) "*in*, or *next unto the limits*," are only directory, and an order of maintenance by two justices, not "*in or next unto the limits where the parish church is*," is rated; and if "*two justices cannot agree in the order, or shall make no order*" in the one

* The complaint for costs incident to the birth of a bastard child, and of securing the reputed father, and of the order of filiation, may be made before *one* justice, and he may issue a warrant to bring the party before two justices. 3 *Geo.* 4. *c.* 23. *s.* 2.

case, a justice not being "*the next,*" may join with either of the others in making the order; and in the other case, recourse might be had to *two* other justices, being as *near* the limits as may be. *Rex v. Skinn, E.* 15 *Geo.* 2. 1 *Bott,* 476.

538. Two justices have no authority to make an order of bastardy, if the child is born in an extra-parochial place. *Rex v. Baker,* 1 *Bott,* 476. If the child is born in an extra parochial place.

539. An order made by five justices, on the complaint of a town, is good. *Rex v. Hatton.* 1 *Bott,* 495. Order by five justices.

540. No time being limited by the 18 *Eliz. c.* 3. *s.* 2. (*see p.* 148, *pl.* 526, *ante,*) for the justices to proceed, they may make the order at any time after the birth of the child, *though the father runs away, and returns* 14 *years after;* for there is no statute of limitation in cases of bastardy. *Rex v. Miles,* 1 *Sessions Cases,* 77. 1 *Bott,* 473. An order may be made at any time after the birth of the child.

541. If the reputed father is imprisoned, and no order is made in six weeks (*see pl.* 500, *p.* 141, *ante,*) after the birth of the child, he may be discharged from his imprisonment; *but the order made upon him afterwards will be good.* 6 *Geo.* 2. *c.* 31. *s.* 3. The reputed father in prison, and no order made after six weeks, he may be discharged.

542. An order for filiating a child of a married woman is good, though it only states that such child was likely to become chargeable, which are the words of 6 *Geo.* 2. *c.* 31. *s.* 1. (*see pl.* 495, *p.* 139, *ante,*) as applied to the bastards of single women; for upon that statute, as well as the 18 *Eliz. c.* 3. which has the words "*begotten and born out of lawful matrimony**," the only question is, whether the child is by law a bastard. 8 *East's Reports,* 193. An order for filiating a child of a married woman.

543. The justices must proceed as in all other like cases, by giving the accused party an opportunity of being heard by summoning him to appear before them to make his defence. *See Rex v. Cotton.* 1 *Sessions Cases,* 179. 1 *Bott,* 486. The accused party must be summoned.

544. The summons need not be by the justices who *sign the order,* and if the party summoned does Summons may be by any justices.

---

* See the recital in this act.

not attend, the justices are not bound to hear any one in his defence. *Rex v. Neal and another.* 1 *Bott,* 487.

Summons by a third justice sufficient.

545. And a summons by a *third* justice is sufficient. *Rex v. Taylor and another,* 2 *Sessions Cases,* 192. *Cases in the King's Bench in the time of Lord Hardwicke,* 112.

If the putative father does not appear, the order will be valid.

546. The order will be valid, if the putative father does not appear to the summons, or is not present at the examination of the mother. (*See p.* 157, *pl.* 570, *post.*) *Rex v. Upton Gray. Caldecott's Reports of Settlement Cases,* 308. 1 *Bott,* 482.

But if he is unable to attend, on account of illness.

547. But if the reputed father is unable to attend on account of *illness* or otherwise, the justices may and *ought* to receive evidence in his behalf, but not otherwise. *Rex v. Taylor and another, above.*

The mother marrying before order is made may be committed.

548. The mother of a bastard child marrying before the order is made may be committed either to the common gaol or house of correction for disobeying it (*see p.* 148, *pl.* 526, *ante*); for the statute prescribes the punishment. There is no need to summon the husband in a criminal prosecution against the wife. *Rex v. Ellen Taylor, late Bent.* 3 *Burrow's Reports,* 1681. 1 *Bott,* 479. *Rex v. Ridge,* 1 *Bott,* 507.

No order can be made unless the child is born alive.

549. But no order of filiation can be made unless the child is born alive; *for all the provisions in the several statutes assume the birth of a child, which must of course be born alive. Rex v. De Brouquenes,* 14 *East's Reports,* 277.

Order conclusive, until reversed.

550. The order of the justices is conclusive of the fact of bastardy until reversed. *Webb v. Cook,* 1 *Bott,* 472.

As to the power of the reputed father to take the child and provide for it himself.

551. It has not been finally settled, whether the reputed father may take the child from the parish and provide for it himself. (*See p.* 148, *pl.* 526, *ante.*) Yet by the determination of the court in the case of *Newland v. Osmond,* 27 *Geo.* 2. it appears that the putative father may take the child from the parish, and maintain it himself. 1 *Bott,* 466, *S. C.* (*See pl.* 526, *p.* 148, *ante.*)

Justices have no power, until de-

552. The justices have no power to commit or

require sureties for the performance of the order, or for the appearance of the party at the sessions, until default is made in not obeying the order. *Regina v. Chaffey*, 2 *Salkeld's Reports*, 66. 1 *Bott*, 487. Default in not obeying the order.

553. The sessions have no power to commit a party against whom an order of filiation has been made by two justices, for not paying the money ordered by the justices, though the order be confirmed at the sessions on appeal. *Regina v. West*, *Lord Raymond's Reports*, 1152. 1 *Bott*, 472. The sessions cannot commit a party against whom an order has been made.

554. In making the original order on the 3 *Car.* 1. *c.* 4. (*p.* 149, *pl.* 529, *ante*,) which statute gives the jurisdiction to the sessions in this case, they may commit, as the *two* justices might have done on the 18 *Eliz. c.* 3. (*p.* 148, *pl.* 526, *ante*,) that is, unless the party gives security to perform the order, or to appear at the next sessions. *Rex v. Weston*, 1 *Salkeld's Reports*, 122. 1 *Bott*, 507. *Regina v. West*, 1 *Bott*, 472. Sessions must commit as two justices.

555. Although the sessions have an original power to make an order of bastardy (under the 3 *Car.* 1. *c.* 4. *s.* 15. *See pl.* 530, *p.* 149, *ante*,) they cannot order the reputed father of a bastard child to give security for the performance of that order. *Rex v. Fox*, 1 *Bott*, 477, *and Rex v. Price*, 6 *Term Reports*, 147. 1 *Bott*, 510. The sessions cannot order the reputed father to give security for the performance of an order.

556. If the sessions in such case make an order of bastardy, and *also order the putative father to give security for the performance of that order*, the court of *King's Bench* will quash the latter part, and confirm the former part of the order. *Rex v. Price*, 6 *Term Reports*, 147, *above pl.* 555. If the sessions make such order.

557. The sessions cannot make an order to fine a constable who has let the putative father escape. *Rex v. Ridge*, 1 *Bott*, 507. Constable letting putative father escape.

As to the Form of the Order.

558. The examination of the woman being a *judicial* act, must be made by *two* justices, as well as the order. It is not enough that *one* should examine and *report to the other*; but if both are present, and *one* only examine, it will be considered the examina- The examination of the woman must be by two justices, as well as the order.

tion of both. *Rex v. Beard,* 2 *Salkeld's Reports,* 478. 1 *Bott,* 481. *Billings v. Prinn and Delabere, Esqs.* 2 *Blackstone's Reports,* 1817. 1 *Bott,* 482.

Order made without complaint bad.

559. An order made out without the complaint of the churchwardens and overseers is not good. *Blackerby's Justice, edit.* 1749 *and* 1734.

Order may be made on complaint of any person.

560. But the 18 *Eliz. c.* 3. does not require that the parish should complain, but gives the justices power to make an order on the complaint of any other. *Rex v. Buckall,* 1 *Barnardiston's Reports,* 261. 1 *Bott,* 482.

It should appear on the order that the party was summoned.

561. It should appear on the face of the order that the person charged was summoned when the order is made by two justices, or at the sessions. *Rex v. Gleg,* 1 *Bott,* 485.

If the order is made at sessions.

562. But it seems that this is only necessary when the order is made at the sessions. *Rex v. Hawkins, Ibid.*

A guardian of the poor, though not legally appointed under the statute 22 Geo. 3. c. 83. may complain to a justice.

563. One who is *de facto* guardian of the poor of a parish, united with other parishes, under the 22 *Geo.* 3. *c.* 83. for the better relief and employment of the poor, and who is *received* and *acknowledged* by the parish as guardian, though not *legally* appointed under the statute, is yet competent to apply in that character to a justice of the peace, to take an examination of a single woman with child, in order to filiate the bastard, which by the 6 *Geo.* 2. *c.* 81. *s.* 1. is directed to be made by the overseers of the poor (*see pl.* 495, *p.* 140, *ante,*) in whose place such guardian is appointed, and he is also competent to apply to the justice for a summons against a reputed father, for not obeying an order of bastardy, which by the 49 *Geo.* 3. *c.* 68. *s.* 3, *post,* is directed to be made upon complaint by *any* one of the overseers of the poor. And though the latter statute directs the magistrate, upon such complaint, and proof on oath, of the order for payment of maintenance and non-payment thereof, to issue his warrant to apprehend the reputed father; yet it is proper for the justice to issue a summons in the first instance to the party charged to attend and show cause, &c. *Rex v. Inhabitants of St. Martyr,* 13 *East's Reports,* 55.

564. The examination of a pregnant woman, taken before a justice of the peace, under 6 *Geo.* 2. *c.* 31. is admissible evidence, on an application to the quarter sessions to make an order of filiation on the putative father, if the woman dies before such application is made, and if not contradicted, ought to be conclusive. *Rex v. Inhabitants of Ravenston, 5 Term Reports,* 373. The examination of a married woman taken before a justice may be evidence on application to the sessions for an order, when the woman dies before the application.

565. An order of bastardy may be made after the death of the woman, upon her examination taken when pregnant, under the 6 *Geo.* 2. *c.* 51. to appear at the next session, and perform such order as shall be made on him: under the 18 *Eliz. c.* 3. respecting bastards, the sessions can only make order of bastardy on him, but cannot order him also to give security for the performance of that order. *Rex v. Price, 6 Term Reports,* 147. An order may be made after the death of the woman.

566. The mother of a bastard child may be examined on oath (*see pl.* 495, *p.* 139, *ante,* 6 *Geo.* 3. *c.* 31. *s.* 1.) concerning the reputed father, and of the time and circumstances; for the matter depends chiefly upon the examination and testimony of the mother. *Dalton's Justice, c.* 11. The mother may be examined on oath as to the father, &c.

567. An order of bastardy must be made on the testimony of a witness examined on oath. An affidavit produced to the justice will warrant the order. *Rex v. Colbert, Comberbatch's Reports,* 69. 1 *Bott,* 495. The order must be made on the oath of a witness.

568. The *sex* of the child, the *name,* and the *parish* where born, must be stated in the order. *Rex v. England,* 1 *Strange's Reports,* 503. 1 *Bott,* 497, *&c. Cases in the King's Bench concerning Poor,* 59. *Rex v. Butcher,* 1 *Strange's Reports,* 437. 1 *Bott,* 499. *Rex v. Childers,* 1 *Barnardiston's Reports,* 326. *Rex v. England, Strange's Reports,* 503. 1 *Bott,* 497. The sex of the child, name of the parish, &c. to be mentioned in the order.

569. The parish where the child is born is only to be indemnified; and if the bastard acquires a settlement in another place, the father is discharged. *Rex v. Greaves, Nelson's Justice, title Bastard.* The parish is to indemnified.

570. It is not necessary to the validity of the order of filiation, that the reputed father should be present The reputed father not to be

present at the examination of the woman.

at the examination of the woman before the justices. *Rex v. Upton Gray, Caldecott's Reports of Settlement Cases,* 308. 1 *Bott,* 482. (*See pl.* 546, *p.* 154, *ante.*)

There must be an express adjudication in the order.

571. There must be an express adjudication in the order, and "*do hereby adjudge,*" and not "*doth adjudge,*" are the proper words to be used, to render the order valid, &c. *Weston,* 2 *Lord Raymond's Reports,* 1197. 1198. 1 *Salkeld's Reports,* 122. *Rex v. Perkasse,* 3 *Siderfin's Reports,* 362.

The order must state the child was born in the parish.

572. The order must state that the sum ordered is for the maintenance of the child, and expressly adjudge, that the child was born in the parish where for the relief of which the order is made. *Anonymous,* 1 *Bott,* 494. *See Rex v. Cuddington,* 1 *Bott,* 497.

The adjudication.

573. And the adjudication must be, that the person against whom the order is made is the *reputed* father. *Rex v. Pitts, Douglas's Reports,* 662. 1 *Bott,* 503.

Justices cannot adjudge a person not to be the putative father.

574. The justices have no authority to adjudge a person *not to be the putative father;* for their whole power is derived from the 18 *Eliz. c.* 3. *s.* 2. (*see pl.* 526, 527, *p.* 148, *ante,*) and that is, only *to take* order for punishment of the parties, and for the relief of the parish. *Rex v. Jenkins,* 2 *Sessions Cases,* 161. 2 *Strange's Reports,* 1050. 1 *Bott,* 474.

No provision in an order of filiation where a bastard settlement is in a different place than when born.

575. There are several cases in which the settlement of bastards is in a different place from that of their birth; and no provision has been made for any *order of filiation in such cases,* except in the case mentioned in the 35 *Geo.* 3. *c.* 101. *s.* 6.* (*see title Removal, post*), where the birth takes place during the suspension of an order of removal. Many orders have been made in these cases, but it seems very clear that they cannot be supported, and the subject certainly requires *the assistance of the legislature. Evans' Collection of Statutes, vol.* 7, *p.* 81. *n.* 31.

---

* Intituled "An act to prevent the removal of poor persons, until they shall become actually chargeable." (Passed 22nd June, 1795.)

576. A gross sum may be ordered for defraying expenses then incurred, and also sum for costs (*see pl.* 531, *p.* 149, *ante*), and also a further sum for the maintenance of the child to the time of making the order, and so much weekly; for the statute authorizes the justices to *take order* (13 *Eliz. c.* 3. *s.* 2. *see pl.* 558, *p.* 155, *ante*), for the relief of the parish and keeping of the child by payment of money weekly, or other sustentation; and this may be for money laid out, for indemnifying the parish before the reputed father was found. *Rex v. Odam*, 1 *Salkeld's Reports*, 124. 1 *Bott*, 497. *Ex parte Addis. M.* 1822. 1 *Barnewall and Creswell's Reports*, 87.

A gross sum may be ordered for defraying expenses then incurred, or by-gone maintenance.

577. There must be an adjudication that the child was born in the parish. *Rex v. Stanley*, 1 *Bott*, 504.

The adjudication as to birth of child.

578. For the jurisdiction of the justices is founded on the birth of the child. *Rex v. Willey*, 1 *Bott*, 499.

Jurisdiction of justices thereon.

579. An order stating that the child was baptized in the parish may be considered to express the place of birth, although by way of recital only. *Rex v. Moravia*, 1 *Bott*, 500.

Order stating that the child was born in the parish.

580. An order can only be made to indemnify the parish, and that only to oblige the father to maintain the child as long as it is or may be chargeable. *Burwell's Case*, *Ventris Reports*, 48. *Rex v. Barebaker*, 1 *Salkeld's Reports*, 121. 2 *Salkeld*, 478. 1 *Bott*, 495. 1 *Ventris Reports*, 210.

An order can only be made to indemnify the parish.

581. But order to pay so much *weekly* till the child is *nine years old, if it shall so long live*, was held to be a good order. *Rex v. Street*, 2 *Strange's Reports*, 788. 1 *Bott*, 498.

An order to pay so much weekly is good.

582. A soldier in *actual service* may be committed for disobeying an order of bastardy, for the mutiny act does not protect him. *Rex v. Archer*, 2 *Term Reports*, 270. 1 *Bott*, 480.

Soldier in actual service may be committed for disobeying order,

583. And one justice may commit a soldier in actual service for want of sureties, under the 6 *Geo.* 2. *c.* 31, on a charge of being the father of a bastard child. *See Rex v. Bower*, 5 *Term Reports*, 157. 1 *Bott*, 81.

and also for want of sureties.

As to the Appeals against the Order of Bastardy.

Any person aggrieved may appeal to the next sessions.

584. Any person aggrieved by any order made by the justices, and *not originating in the quarter sessions* (*see pl.* 586), may appeal to the next general quarter sessions (*see pl.* 588), on giving notice to the justice, *or one of them*, and also to the churchwardens and overseers of the poor, *or one of them*, 10 clear days (*see pl.* 586,) before the sessions, of the cause and matter of appeal, and

On giving ten clear days notice.

on entering into a recognizance (*see pl.* 592, *p.* 161, *post*) within three days after the notice before some justice for the county, with sufficient security, conditioned to try the appeal and abide the judgment of the court, and pay such costs as the justices at the sessions shall award. 49 *Geo.* 3. *c.* 68. *s.* 5.

No appeal to be heard without such notice.

585. No appeal relating to bastardy shall be brought, received, or heard, unless such notice (*pl.* 584) shall have been given, and such recognizance shall have been entered into. *Ibid. s.* 7.

Although no appeal made at sessions.

586. Although there is no appeal against an order of bastardy *made at the sessions* (*see pl.* 589), yet it may be removed by *certiorari* into the *K. B.* 2 *Nolan's Poor Laws*, 282, 3*rd edit.*

Reputed father must be in court when order made.

587. The court of *K. B.* will not grant an order of bastardy, unless the reputed father is present in court. *Rex v. Matthews*, 2 *Salkeld's Reports*, 475. 1 *Bott*, 496. *Rex v. Gibson*, 1 *Blackstone's Reports*, 198. 1 *Bott*, 511.

The appeal must be to the next sessions.

588. And the appeal must be to the next *general quarter sessions* (*see pl.* 584, *ante*) after notice of the order. 3 *Keble's Reports*, 551.

Where an order is quashed on the merits.

589. Where the order is either quashed or confirmed upon the merits it is conclusive. *Rex v. Tenant*, 2 *Lord Raymond's Reports*, 1423, 1424. 2 *Strange's Reports*, 716. 1 *Bott*, 511. *Pridgeon's Case. Croke's Reports in the time of Charles*, 350. *Bulstrode's Reports*, 255. 1 *Bott*, 506. *Rex v. Arundel.* 1 *Sessions Cases*, 234. 1 *Bott*, 509.

590. But if the order is quashed for want of form, the justices may proceed *de novo*; or the sessions may amend the order as to its form, and proceed on the merits. 5 *Geo.* 2. *c.* 19. *s.* 1.* *See Rex v. Bedwin, B. S. C.* 165. *Rex v. Chilverscotton,* 8 *Term Reports,* 173. Where the order is quashed for want of form.

591. The ten days' clear notice of appeal to be given according to the statute (*pl.* 584. *p.* 160, *ante,*) are to be taken *exclusively,* both of the day of serving the notice and the day of holding the sessions. *Rex v. the Justices of Herefordshire. E.* 1 *Geo.* 4. 3 *Barnewall and Alderson's Reports,* 581. The ten days' notice must be exclusive.

592. Entering into the recognizance required by the 49 *Geo.* 3. *c.* 68. *s.* 5. (*see pl.* 584. *p.* 160, *ante*) before the justices who make an order of bastardy, does not dispense with the necessity of giving the justices notice of bringing such appeal, *and of the cause and matter thereof.* But it was held, that a *parol* notice of such appeal, and of the cause and matter thereof, was sufficient. *Rex v. the Justices of Salop. T.* 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports,* 626. Entering into the recognizance does not dispense with the notice.

As to the Right of the reputed Father or the Mother to the Custody of the Child.

593. The putative father may take the child from the parish and maintain it himself (*see pl.* 551. *p.* 154, *ante*). *Newland v. Osman, T.* 27 *Geo.* 2. 1 *Bott,* 466. *S. C.* The putative father may take the child from the parish.

594. A bond given to indemnify the parish as to the child *generally,* was held to be forfeited, where the Bond to indemnify the parish.

---

* Intituled "An act to oblige the justices of the peace, at their general or quarter sessions, to determine appeals made to them according to the merits of the case, notwithstanding defects of form in the original proceedings, and to oblige persons serving forth writs of *certiorari,* to remove orders made on such appeals into his majesty's court of K. B., to give security to prosecute the same with effect.

father was called upon by the parish to maintain the child, although the child was under 7 years of age, and the mother took it out of the custody of the father. *Hulland v. Malkin, and another*, 2 *Wilson's Common Pleas Reports*, 126. 1 *Bott*, 488.

The mother is entitled to the custody of the child for nurture till seven years old.

595. But until such child attains the age of *seven* years, the mother is entitled to the custody of it for nurture; and therefore if a bastard be settled in a different parish from the mother, the mother shall have the custody of her child in the parish in which she is settled, and the parish in which the bastard child is settled shall pay the expense of its nurture. *Rex v. Hemlington*, 1 *Bott*, 468.

How if the putative father undertakes to provide for it.

596. If the putative father of a bastard child undertakes to maintain it, the parish officers cannot contravene such disposition. *Richards and Salmon v. Hodges*, 2 *Saunders' Reports*, 83. 1 *Bott*, 464.

Where he agrees to indemnify the parish.

597. Where the putative father agrees to indemnify the parish, the parish officers may demand security to any extent, however large, which they think proper; it being no hardship upon the father, it being optional with him either to give the security demanded, or enter into a recognizance to abide the judgment of the sessions. *Dickenson v. Brown, Peake's Nisi Prius. Common Pleas Reports*, 307. 1 *Bott*, 490.

The parish officer may demand security to any extent.

If the putative father takes the child and provides for it.

598. If the putative father takes the child and provides for it, the parish officers cannot call upon him for maintenance while it is in his custody, or order him to deliver it to the mother. *Felton v. Wenman*, 1 *Bott*, 478.

Where the father promises to pay for the maintenance of the child.

599. Where the putative father promised to pay for the maintenance of the child, it was held upon an action of assumpsit, brought on an *express promise* of the father, that evidence of such person not being the father could not be admitted. Per Lord Kenyon, "the jury could not try who was the father of the child, but must confine themselves to the contract." *Shaw v. Whiteman, Peake's Nisi Prius Cases*, 42.

On appeal the respondents to begin.

600. In all cases of appeal to the sessions, the respondents are to begin by supporting their order. *Rex v. Knill*, 12 *East's Reports*, 50, *Supp.* 20.

601. Where the putative father of a bastard child, on whom an order of filiation had been made, obtained possession of the child by fraud, it was held, per Lord Kenyon, "*that the putative father had no right to the custody of the child,*" and it was accordingly restored to the mother. *Rex v. Soper, 5 Term Reports,* 278. Where he obtains possession of the child by fraud.

602. And where a child within the age of *nurture* was taken from the mother, first by stratagem, and again by force, the court ordered it to be restored to the mother. *Rex v. Hopkins and Wife, 7 East's Reports,* 599. *3 Smith's Reports,* 577, *S. C.* If the child is taken by stratagem or force.

603. The mother is entitled to the custody of her illegitimate child in preference of the reputed father, *though the father may be better able to educate it. Ex parte Ann Knee, C. P.* 1804. *1 New Reports by Bosanquet and Puller,* 148. *See King v. de Manneville, 5 East's Reports,* 221. *The King v. Moseley, 5 East,* 224, (*n.*), *and Rex v. Soper* (*pl.* 601, *ante*). The mother is entitled to the custody of her bastard child.

604. Sir James Mansfield was inclined against *any* putative father, in whatever circumstances of poverty, having the power to call for the custody of the child when past the age of *seven* years. *Strangeways v. Robinson, 4 Taunton's Reports,* 498. A putative father in poverty, not to have the custody of his bastard child after the age of seven years.

605. Where a woman having three bastard children, relieved by, and dwelling in the parish of S. married, and went to live with her husband in B. the place of his settlement; it was held to be no discharge of the liability of the parish of S. to maintain the children. *Shermanbury v. Bolney, Carthew's Reports,* 279. *1 Bott,* 464. A woman having three bastard children living in one parish, marries and goes into another parish to live with her husband.

As to the punishing the Mother.

606. Where a woman shall have a bastard child, which may be chargeable (*see pl.* 609, *post*) to the parish; it shall be lawful for *any two* justices* of the peace before whom she shall be brought, The mother may be committed.

---

* The restriction to the two next justices by 18 *Eliz.* is renewed by the statute.

and they shall or may at their discretion commit her to the house of correction for the district or place, and there to be set on work, for any time not exceeding *twelve calendar months*, nor less than *six weeks*. 50 *Geo.* 3. *c.* 57. *s.* 1.*

Two justices at a petty sessions may discharge a woman after six months.

607. Two justices at any petty sessions for the division, where the parish to which the said bastard child may be chargeable, upon their own recognizance, or a certificate duly authenticated from the keeper of the house of correction, in which such woman shall have been confined six weeks, of her good behaviour during her confinement, and of the reasonable expectation of her reformation, may, by warrant under their hands and seals, order the woman to be immediately (or at the time appointed in such warrant) discharged from further confinement." *Ibid. s.* 3.

On certificate of good conduct.

A woman is not to be committed before the end of a month of her delivery.

608. But no such woman to be committed until she has been delivered one month. *Ibid. s.* 4.

But a woman cannot be committed if she will discharge the parish of expenses.

609. It is doubtful whether such woman can be legally committed, either under the 18 *Eliz.* or the 50 *Geo.* 3. *c.* 51, *if she will discharge the parish of keeping the bastard child. See* 4 *Blackstone's Commentaries*, 65, *edit.* 1799. *See Rex v. Alveley, and Rex v. Tibbenham, title "Removal," post.*

The child cannot be committed with the woman.

610. The child *cannot* be committed with the mother; it is at her option either to take the child with her or leave it; if the child is left, it must be supported by the parish in which it is legally settled, or by that from which the mother is committed. *Dalton's Justice, c.* 11. *p.* 34. *See Rex v. Hemlington, title "Bastard's Settlement," 1 Bott, post.*

---

* Intituled "An act to repeal so much of an act passed in the seventh year of king James I. as relates to the punishment of women delivered of bastard children, and to make other provisions in lieu thereof." (Passed 9th June, 1810.)

As to the reputed Father or Mother running away.

611. Where the putative father or the mother of bastard children run away out of the parish, and leave their children upon the charge of the parish where they are born; the churchwardens and overseers of the poor of the parish where any bastard child shall be born, may take and seize "*so much of the goods and chattels, and receive so much of the annual rents or profits of the lands of the putative father or lewd mother, as shall be ordered* by any two justices, *for or towards the discharge of the parish, to be confirmed at the sessions, for the bringing up and providing for such bastard child;*" and the sessions may make an order for the parish officers to dispose of the goods by sale or otherwise, or so much as the court think fit, and to receive the rents and profits of his or her lands, or so much of them as the sessions shall order. 13 *and* 14 *Car.* 2. *c.* 12. *s.* 19.

The goods of a father or mother may be seized, and the rents, &c. received by the parish officers.

The sessions may order parish officers to sell so much as they think fit.

612. The justices cannot order the churchwardens to seize so much of the goods as they (the churchwardens) shall think proper. *Regina v. Chaffey*, 2 *Lord Raymond's Reports*, 858. 3 *Salkeld's Reports*, 1 *Bott*, 472.

The churchwardens not to seize so much as they think proper.

613. "Every person being able wholly or in part to maintain himself or herself or family by work, or other means, and wilfully refusing or neglecting so to do, by which he or she, or any of his or her family shall become chargeable to any parish, township, or place, every such person returning to and becoming chargeable to any parish, &c. from whence he or she shall have been legally removed, unless he or she shall produce a certificate from the parish officers of some other parish, &c. thereby acknowledging him or her to be settled there, shall be deemed idle and disorderly persons, and on conviction either by the oath of one, or on the confession of the offender, shall be committed to the house of correction to hard labour for any time not exceeding one calendar month." 5 *Geo.* 4. *c.* 83. (*Vagrant act.*)

Persons refusing or neglecting to maintain themselves and their families, and thereby becoming chargeable, &c.

For the settlement of bastard children, see the title Settlements "Bastards," post.

PARISH VESTRIES.

A VESTRY is a meeting of the parishioners, convened for the purpose of consulting and determining upon any matters in which the interest of the parish is involved.

The ecclesiastical court has jurisdiction over all the proceedings of a vestry *held in the church.* The mode of holding vestries, and the regulations as to their meeting, and the business to be done, has been settled by the following acts of parliament.

Of the Regulations of Parish Vestries under the 58 *Geo.* 3. *c.* 69.

Notice of holding vestry.

614. "No vestry, or meeting of the inhabitants in vestry, of or for any parish (*in England and Wales*), shall be holden until public notice shall have been given of such vestry, and of the place and hour of holding the same, and *the special purpose* thereof, *three days at least*, before the day to be appointed for holding such vestry, by the publication of such notice in the parish church or chapel, on some *Sunday*, during or immediately after divine service, and *by affixing the same, fairly written or printed, on the principal door* of such church or chapel." 58 *Geo.* 3. *c.* 69. *s.* 1 *.

Chairman to be appointed in the absence of the rector, vicar, or perpetual curate.

615. "For the more orderly conduct of vestries, in case the rector, or vicar, or perpetual curate shall not be present, the person so assembled in pursuance of such notice, shall forthwith nominate and appoint by plurality of votes, to be ascertained as hereinafter is directed, one of the inhabitants of such parish to be the chairman of, and preside in every such vestry; and in all cases of equality of votes upon any occasion arising therein, the chairman shall (in addition to such vote or votes as he

---

* Intituled "An act for the regulation of parish vestries."

may by virtue of this act be entitled to give in right of his assessment) have the casting vote; and minutes of the proceedings and resolutions of every vestry shall be fairly and distinctly entered in a book (to be provided for that purpose by the churchwardens and overseers of the poor), *and shall be signed by the chairman*, and by such other of the inhabitants present as shall think proper to sign the same." *Ib. s.* 2. *c.* 11.

Manner of voting.

616. "In all such vestries, every inhabitant present who shall, by the last rate which shall have been made for the relief of the poor, have been assessed and charged upon or in respect of any annual rent, profit, or value not amounting to 50*l.* shall have, and be entitled to give one vote, and no more; and every inhabitant present who shall in such last rate have been assessed or charged upon or in respect of any annual rent or rents, profit, or value amounting to 50*l.* or upwards (whether in one or in more than one sum or charge), shall have and be entitled to give one vote for every 25*l.* of annual rent, profit, and value, upon or in respect of which he shall have been assessed or charged in such last rate; so nevertheless that no inhabitants shall be entitled to give more than six votes; and in cases where two or more of the inhabitants *present* shall be jointly rated, each of them shall be entitled to vote according to the proportion and amount which shall be borne by him, by the joint charge; and where one only of the persons jointly rated shall attend, he shall be entitled to vote according to and in respect of the whole of the joint charge." *Ibid. s.* 3.

One vote.

One vote for every 25*l.* of annual rent.

But not to have more than six votes, and persons jointly rated to vote according to a proportion of the joint charge.

617. "Where the poor rates, according to an ancient custom, have always been made without respect to the value of the property in the parish, but according to the *supposed ability* of the party charged; it was held that persons so rated were not rated in respect of any *annual rent, profit, or value*, within the meaning of the 58 *Geo.* 3. *c.* 69. *s.* 3; and therefore they were not entitled to more than *one* vote at vestry meetings, although rated upon more than 50*l.*"

Where persons are rated according to the ability of the party, not entitled to more than one vote, though rated at more than 50*l.*

618. "When any person shall have become an

Persons may vote who are liable to

be rated, although not actually rated.

inhabitant of any parish, or become liable to be rated therein, since the making of the last rate for the relief of the poor thereof, he shall be entitled to vote for and in respect of the lands, tenements, and property for which he shall have become liable to be rated, and shall consent to be rated, in like manner as if he should have been actually rated for the same." 58 *Geo.* 3. *c.* 69. *s.* 4.

Persons refusing or neglecting to pay rate after demand not to vote until the rate is paid.

619. "No person *who shall have refused or neglected* to pay any rate for the relief of the poor, which shall be due from, *and shall be demanded of* him, shall be entitled to vote or to be present in any vestry, for the parish for which such rate shall have been made, until he shall have paid the same." *Ibid. s.* 5.

All books, accounts, and vouchers to be kept by such person and in such place as the vestry shall order.

620. "The books hereby directed to be provided and kept for the entry of the proceedings of vestries, as all former vestry books, and all rates and assessments, accounts and vouchers of the churchwardens, overseers of the poor, and surveyors of the highways, and other parish officers, and all certificates, orders of courts and of justices, and other parish books, documents, writings, and public papers of every parish (except the registry of marriages, baptisms, and burials), shall be kept by such person and persons, and deposited in such place and manner, as the *inhabitants in vestry assembled* shall direct; and if any person in whose hands or custody any such book, rate, assessment, account, voucher, certificate, order, document, writing, or paper shall be, shall wilfully or negligently destroy, obliterate, or injure the same, or suffer the same to be destroyed, obliterated or injured, or shall, after reasonable notice and demand, refuse or neglect to deliver the same to such person or persons, or to deposit the same in such place, as shall *by order of any such vestry* be directed, any person so offending, and being fully convicted thereof, on confession, or on the oath of a witness, by and before two justices of the peace, upon complaint to them made, shall for every such offence forfeit such sum not exceeding 50*l.* nor less than 40*s.* as shall by such justices be adjudged; and the same shall be received and levied by warrant of such justices in such

Wilfully destroying parish books, &c.

manner and by such ways and means as poor's rates in arrear by law, to be recovered and levied, and shall be paid to the overseers of the poor of the parish against which the offence shall be committed, or to some of them, and be applied for and towards the relief of the poor thereof: that every person who shall unlawfully retain in his custody, or shall refuse to deliver to any person or persons authorized to receive the same, or who shall obliterate, destroy, or injure, or suffer to be obliterated, destroyed, or injured, any book, rate, assessment, account, voucher, certificate, order, document, writing, or paper, belonging to any parish, or to the churchwardens, overseers of the poor, or surveyors of the highways thereof, may in every such case be proceeded against in any of his majesty's courts, civilly or criminally, in like manner as if this act had not been made." *Ibid. s.* 6.

All the provisions, &c. in this act to extend to townships, vills, &c.

621. "All provisions, authorities, and directions in this act contained in relation to parishes, shall extend and be construed to extend to all townships, vills, and places having separate overseers of the poor, and maintaining their poor separately; and that all the directions and regulations herein contained in regard to vestries shall extend and be applied to all meetings which may by law be holden of the inhabitants of any parish, township, vill, or place, for any of the purposes in this act expressed: and that the notices by this act required to be given of every vestry, may, in places in which there is or shall be no parish church or chapel, or where there shall not be divine service in such church or chapel, be given and published in such manner as notices of the like nature shall have been there usually given and published, or as shall be most effectual for communicating the same to the inhabitants of every such parish, township, vill, or place respectively." *Ib. s.* 7.

Not to alter the time of holding vestries directed to be held on any certain day by any other act.

622. "Nothing in this act contained shall extend, or be construed to extend, to alter the time of holding any vestry, parish, or town meeting, which is by the authority of any act required to be holden on any certain day, or within any certain time in such act prescribed and directed; nor shall any thing in this

act contained extend to take away, lessen, prejudice, or affect the powers of any vestry or meeting holden in any parish, township, or place by virtue of any special act or acts, of any ancient and special usage or custom, or to change or affect the right or manner of voting in any vestry, or meeting so holden." *Ibid.* *s.* 8.

Not to parishes in the city of London.

623. "Nothing in this act contained shall extend to any parishes within the city of *London*, nor in the borough of *Southwark*, only to *England* and *Wales*." *Ibid.* *s.* 9.

Persons assessed and not residing in the parish may attend and vote at vestry.

624. The statute of 59 *Geo.* 3. *c.* 85, after reciting the last above named statute of the 48 *Geo.* 3, enacts, "that any person who shall be assessed or rated for the relief of the poor in respect of any annual rent, profit, or value, arising from any lands, tenements, or hereditaments, situate in any parish in which any vestry shall be holden, under the said recited act, although such person shall not reside in or be an inhabitant of such parish, shall and may lawfully be present at such vestry, and such person shall have and be entitled to give such and so many vote or votes at such vestry, in respect of the amount of such rent, profit, or value, as by the said act, any inhabitant of such parish present at such vestry might or ought to have and be entitled to give in respect of such amount, and to all intents and purposes, as if such person were an inhabitant of such parish; any thing in the said recited act * to the contrary in anywise notwithstanding." 59 *Geo.* 3. *c.* 85. *s.* 1.

Vestry clerk is not obliged to produce parish books.

625. The vestry clerk is not obliged to produce and permit copies of parish book and documents in his custody for any other than parochial purposes (*see title, Vestry Clerk, p.* 176, *post*).

The clerk, secretary, steward, or agent of a corporation, body politic or corporate, or company, may be present at and vote in vestry.

626. "In all cases where any corporation, or body politic or corporate, or company, shall be charged to the rate for the relief of the poor of such parish,

---

* And by 59 *Geo.* 3. *c.* 12. *s.* 22, any person rated as the *owner* of certain houses, apartments, &c. shall be entitled to be present at and vote in vestry, as an *inhabitant*.

either in the name of such corporation, or of any officer of the said corporation, it shall and may be lawful for the clerk, secretary, steward, or other agent duly authorized for that purpose of such corporation, or body politic or corporate, or company, to be present at any vestry to be holden in the said parish under the said recited act; and such clerk, secretary, steward, or agent, shall be entitled to give such and so many vote or votes at such vestry, in respect of the amount of the rent, profit, or value of such lands, tenements, or hereditaments, as by the said act any inhabitant assessed to such rate, present at such vestry, might or ought to have and be entitled to in respect of such amount." *Ibid. s.* 2.

No person who has refused or neglected to pay poor rate on demand shall be entitled to be present at or vote until the rate is paid.

627. It was intended by the said act to be enacted, that no person should be present at or vote at any vestry who should have refused to pay any assessment that had become due, and had been demanded of such person; but the word "and" was by mistake so inserted in the said act as to make the same in that respect ambiguous; now, to rectify such mistake, "it is enacted, That no person who shall have refused or neglected to pay any rate for the relief of the poor, which shall be due from and shall have been demanded of him, shall be entitled to vote or to be present in any vestry of the parish for which such rate shall have been made, until he shall have paid the same; nor shall any such clerk, secretary, steward, or agent, be entitled to be present or to vote, nor shall be present or vote, at any vestry in such parish, unless all rates for the relief of the poor, which shall have been assessed and charged upon or in respect of the annual rent, profit, or value, in right of which any such clerk, secretary, steward, or agent shall claim to be present and vote, and which shall be due, which shall have been demanded at any time before the meeting of such vestry shall have been paid and satisfied." *Ibid. s.* 3.

Of Select Vestries, under 59 *Geo.* 3. *c.* 12.

The inhabitants of any parish may establish a select vestry.

628. The inhabitants of any parish (*in England*) in vestry assembled are empowered to establish a

select vestry for the concerns of the poor of such parish; and to that end to nominate and elect, in the same or in any subsequent vestry, or any adjournment thereof respectively, such and so many substantial householders or occupiers within such parish, *not exceeding the number of twenty, nor less than five,* as shall in any such vestry be thought fit to be members of the select vestry; and the rector, vicar, or other minister of the parish, and in his absence the curate thereof (such curate being resident in and charged to the poor's rates of such parish), and the churchwardens and overseers of the poor for the time being, together with the inhabitants who shall be nominated and elected as aforesaid (such inhabitants being first thereto appointed by writing under the hand and seal of one of his majesty's justices of the peace, which appointment he is hereby authorized and required to make), shall be and constitute a select vestry for the care and management of the concerns of the poor of such parish; *and any three of them (two of whom shall neither be churchwardens nor overseers of the poor), shall be a quorum;* and when any inhabitant elected and appointed to serve in any such select vestry shall, before the expiration of his office, die or remove from the parish, or shall become incapable of serving, or shall refuse or neglect to serve therein, the vacancy which shall be thereby occasioned shall, as soon as conveniently may be, be filled up by the election and appointment, in manner aforesaid, of some other substantial householder or occupier of such parish, and so from time to time as often as any such vacancy shall occur; and every such select vestry shall continue and be empowered to act from the time of the appointment thereof until fourteen days after the next annual appointment of overseers of the poor of the parish shall take place, and may be from year to year, and in any future years, renewed in the manner hereinbefore directed; and every such select vestry shall meet once in every fourteen days, and oftener if it shall be found necessary, in the parish church, or in some other convenient place within the parish; and at every such

meeting a chairman shall be appointed by the majority of the members present, who shall preside therein: and in all cases of equality of votes upon any question there arising, the chairman shall have the casting vote; and every such select vestry is empowered and required to examine into the state and condition of the poor of the parish, and to inquire into and determine upon the proper objects of relief, and the nature and amount of the relief to be given; and in each case shall take into consideration the character and conduct of the poor person to be relieved, and shall be at liberty to distinguish, in the relief to be granted, between the deserving and the idle, extravagant, or profligate poor; and such select vestry shall make orders in writing for such relief as they shall think requisite, and shall inquire into and superintend the collection and administration of all money to be raised by the poor's rates, and of all other funds and money raised or applied by the parish to the relief of the poor; and where any such select vestry shall be established, the overseers of the poor are required, in the execution of their office, to conform to the directions of the select vestry, and shall not (except in cases of sudden emergency or urgent necessity, and to the extent only of such temporary relief as each case shall require, and except by order of justices, in the cases hereinafter provided for) give any further or other relief or allowance to the poor than such as shall be ordered by the select vestry. 59 *Geo.* 3. *c.* 12 **. s.* 1. 37.

A select vestry existing by ancient custom cannot elect another select vestry under this act.

629. A select vestry for the management of parish affairs existing by *ancient custom*, cannot elect another select vestry for the management of the poor within the 59 *Geo.* 3. *c.* 12. *s.* 36. *Rex v. Woodman and others, E.* 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports*, 507.

In case of complaint to a justice of want of relief by a poor inhabitant.

630. "When any complaint shall be made to any justice of the peace of the want of adequate relief,

---

Intituled "An act to amend the laws for the relief of the poor." (Commonly called the Select Vestry Act, passed 31st March, 1819.)

by or on the behalf of any poor inhabitant of any parish for which a *select vestry* shall be established by virtue of this act, such justice shall not proceed therein, or take cognizance thereof, unless it shall be proved on oath before him, that application for such relief hath been *first* made *to and refused* by the *select vestry;* and in such case, the justice to whom the complaint shall be made may summon the overseers of the poor, or any of them, to appear before any two of his majesty's justices of the peace to answer the complaint: and if upon the hearing thereof it shall be proved on oath, to the satisfaction of the justices who shall hear the same, that the party complaining, or on whose behalf the complaint shall be made, is in need of relief, and that adequate relief hath been refused by the select vestry, or that such select vestry shall not have assembled as by this act directed, it shall be lawful for such justices to make an order, under their hands and seals, for such relief as they, in their just and proper discretion, shall think necessary (reference being also had by such justices to the character and conduct of the applicant), provided that in every such order the special cause of granting the relief thereby directed shall be expressly stated, and that no such order shall be given to extend for any longer time than one month from the date thereof; provided that it shall be lawful for any justice to make an order for relief in any case of urgent necessity, to be specified in such order, so as such order shall remain in force only until the assembling of the select vestry of the parish, as aforesaid, to which such case shall relate." *Ibid. s.* 2.

Number of select vestry to be entered in a book of all their meetings, proceedings, &c. and of all money received and expended.

631. "Every select vestry to be established by authority of this act, shall cause minutes to be fairly entered in books, to be for that purpose provided, of all their meetings, proceedings, resolutions, orders and transactions, and of all sums received, applied, and expended by their direction; and such minutes shall from time to time be signed by the chairman, and shall, together with a summary or report of the accounts and transactions of the select vestry, be laid before the inhabitants of the parish

in general vestry assembled, twice in every year, that is to say, in the month of *March* and the month of *October*, and at such other times as the select vestry shall think fit; and the minutes, proceedings, accounts, and reports of every select vestry shall belong to the parish, and be preserved with the other books, documents, accounts, and public papers thereof." *Ibid. s.* 3.

Ten days' notice to be publicly given in the usual manner of a vestry for the purpose of establishing a select vestry.

632. "The churchwardens and overseers of the poor shall cause ten days' notice, at the least, to be publicly given in the usual manner, of every vestry to be holden for the purpose of establishing any select vestry, or of nominating and electing the members, or any member thereof, and of every vestry to be holden for the purpose of receiving the report of the select vestry, and every notice of any such vestry shall state the special purpose thereof." *Ibid. s.* 4.

Justices only to act within their own jurisdiction.

633. "All powers and authorities, by this act given to and vested in justices of the peace, shall be exercised and executed by such justices within the limits of their respective commissions and jurisdictions, and not elsewhere; and all provisions, clauses, authorities and directions in this act contained, in relation to parishes, shall extend and be construed to extend to all townships, vills, and places having separate overseers of the poor, and maintaining their poor separately; and all acts and duties required or authorised by this act to be done and executed by churchwardens and overseers of the poor may in every parish be performed, exercised, and executed, by the major part of the churchwardens and overseers of the poor thereof; and in townships, vills, and places which have no churchwardens, the same may be performed, exercised, and executed, by the overseers of the poor thereof, or the major part of them; and all the powers, provisions, and clauses in this act contained, which relate to vestries, or to the inhabitants of any parish in vestry assembled, shall be construed to extend to all meetings of the inhabitants of any township, vill, or place, having separate overseers of the poor, and maintaining its poor separately, to be held after due and legal notice for

carrying into execution the laws for the relief of the poor, as fully as in every such provision and clause they were severally and respectively named and repeated." *Ibid. s.* 35.

634. Nothing in this act to extend to take away, abridge, or alter, further than is hereby enacted, any of the powers contained in the 22 *Geo.* 3. *c.* 83. (*see Guardians of the Poor, post*), for the relief and employment of the poor with respect to parishes, townships, and places which have adopted, or shall adopt, the provisions of that act, or the provision of any local or special acts for the management of the poor; nor to affect any select vestry which has been established and acted upon by virtue of ancient usage or custom. *Ibid. s.* 36. (*See pl.* 629, *p.* 173, *ante.*)

Of the Vestry Clerk.

The vestry clerk is chosen by the parishioners in vestry, and he holds his office during pleasure as its secretary and registrar. (*Shaw's Poor Laws.*) And he may be appointed at any vestry.

His principal duty is to attend all parish meetings, minute down, draw up, and copy all orders and other acts of the vestry, and give copies thereof, and of assessments for the relief of the poor, to the parishioners when required, for which he is entitled to be paid by the party requiring them. But the vestry clerk is not compellable to produce or permit copies of documents from the parish chest in his custody for any other than parochial purposes. *May v. Gwynne, H.* 1 *and* 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports,* 301. (*See pl.* 620. *p.* 168, *ante.*)

He has also the custody and care of all books, papers, and other documents belonging to or relating to the affairs of the parish.

But for the preservation of the parish books and papers (except the registry of marriages, baptisms, and burials) the parish officers have power to order in what place and in whose custody they shall be kept. 58 *Geo.* 3. *c.* 69. *s.* 6. (*See pl.* 620. *p.* 168, *ante.*)

GUARDIANS OF THE POOR,

Under the 22 *Geo.* 3. *c.* 80.

635. No parish could appoint *any persons* under the style or title, and with the powers of guardians of the poor, until the act of the 22 *Geo.* 3. *c.* 83. was enacted. All the numerous acts which had passed from the time of Elizabeth to that period, were found to be inadequate to the purposes of ameliorating the condition of the poor. The preamble of that salutary statute sets forth that "notwithstanding the many laws now in being for the relief and employment of the poor, and the great sums of money raised for those purposes, their sufferings and distresses are nevertheless very grievous; and *by the incapacity, negligence, or misconduct* of overseers, the money raised for the relief of the poor is frequently *misapplied*, and sometimes expended in defraying *the charges of litigations indiscreetly or unadvisedly carried on*. For remedy of these grievances and inconveniences, and in order to make better and more effectual provision for the relief and employment of the poor, and to introduce a prudent economy into the expenditure of the parish money," this act was in the wisdom of the legislature made, and which lays down many excellent regulations for the furthering the wholesome purpose of protecting and relieving the poor, by appointing *guardians of the poor, governors, and visitors*, under restrictions which, if adopted, would probably remedy many evils now attendant on the poor laws. But this act is not attended to *except in a very few parishes*, which have reaped the most important benefits from having adopted its provisions.

No guardian of the poor until this act was passed.

636. The *benefits* of this act will not *extend* to any parish which does *not agree* to adopt its provisions; and it only requires consideration to induce parishes generally to embrace the opportunity offered by this statute for the best mode of regulating their poor.

Parishes not having adopted the provisions of this act not to be benefited by it.

Nomination of guardians and governors.

637. This act may be carried into effect whenever two-third parts in number and value of the owners or occupiers, according to their poor rate within any parish, shall, at a public meeting to be holden pursuant to the direction of the act, signify their approbation of the provisions therein contained, and their desire to adopt them, and shall at such meeting, nominate to the justices three persons for guardians and three others for governors of the poor-house, and *fix salaries* to be paid to them respectively, and shall procure the consent of two justices to such agreement and salaries, by writing under their hands; they shall from thenceforth be entitled to the benefits of the act 22 *Geo.* 3. *c.* 12. *s.* 3. Whenever two-third parts in number and value, as required by the said act, as have actually attended such meeting, have there signified their approbation of the provisions contained in the said act, and their desire to adopt them, such approbation and desire so signified shall be considered a sufficient *compliance* with the act. 22 *Geo.* 3. *c.* 83. *s.* 3. 33 *Geo.* 3. *c.* 35. *s.* 1.

With a salary.

638. And whenever two third parts in number and value of such persons actually attending such public meeting, shall nominate and recommend to the consideration of the justices of the county wherein such meeting shall be held, *three able and discreet* persons qualified for guardians of the poor, and shall fix the salary to be paid to such guardians according to the said act; and shall also, at such public meeting, by writing under their hands, signify their opinion to the said justices, that on account of the extent of the population of the parish, &c. more than *one guardian* of the poor is necessary, and shall express their desire that *two* or *three* persons so nominated and recommended may be appointed guardians of the poor for such parish, &c. the justices are empowered to appoint *two guardians* accordingly. 33 *Geo.* 3. *c.* 35. *s.* 1.

Four or more.

639. And if it shall be the opinion of such two thirds, at a public meeting called for that purpose, pursuant to notice given in the parish church on the *Sunday* preceding, that *one guardian* is insufficient

for the purposes of the 22 *Geo.* 3. *c.* 83. and the same be certified by *two or more* persons present at such meeting, in writing under their hands, to two justices of the district, together with the names of *four or more fit persons* for the office of guardian, such justices may, by writing under their hands, appoint *such and so many* of such persons to be guardians as they shall think fit. 41 *Geo.* 3. *c.* 9.

The agreement to be entered with the clerk of the peace.

640. When two such third parts of such owners and occupiers shall think fit with such approbation, signified and subscribed at the foot of the agreement, to unite for the purposes of this act, and shall signify their desire at a public meeting in such parish, to be held as aforesaid, an agreement shall be entered into by the guardians of the poor of each parish, specifying as therein mentioned, to be entered with the clerk of the peace, and a copy left with him within *three* calendar months from the date of the agreement, and from that time the parishes shall have the benefit of the act. 22 *Geo.* 3. *c.* 18. *s.* 4.

No parish more than ten miles from poor-house to unite.

641. Two or more parishes may unite for the purposes of this act; but no parish, &c. distant more than *ten* miles from the poor-house, shall be permitted to unite with the parish or place in which such poor-house is established. *Ibid. s.* 5.

Casual poor.

642. All casual poor in poor-house to be relieved by all the said parishes jointly. 33 *Geo.* 3. *c.* 35. *s.* 3.

Public meetings how to be held.

643. Notice of every public meeting to be held under this act shall be given in the church *three successive Sundays*; and a copy fixed previous to the meeting, on the church door, and none shall vote at such meeting unless he is owner or occupier of lands assessed to the poor rate after the rate of 5*l.* per annum at the least; but when there are not *ten* persons qualified as aforesaid, then every person assessed or paying poor's rates, may vote. 22 *Geo.* 3. *c.* 83. *s.* 6.

Power of guardians.

644. And where guardians are appointed, neither churchwardens nor overseers shall intermeddle in the care and management of the poor, but the guardian shall be invested with all the powers given by any act of parliament to the overseers of the poor,

Churchwardens to have power to make and collect poor rates.

and in all respects, except in regard to making and collecting the rates, shall be an overseer; but the churchwardens and overseers shall continue to have the powers of making and collecting the poor rate as at present, and shall pay the same to the guardian from time to time as may be necessary in discharging the expenses of the house and poor; or if two parishes or places are united, they shall pay over their *quotas* respectively to the treasurer of such united district; or shall permit the treasurer to draw a draft upon them, and specify in the receipt and draft the general purposes for which such money is to be applied; to be allowed to the churchwardens and overseers in their accounts; and the accounts both of them and the guardians shall be examined monthly by the visitor, after they shall have been verified on oath before a justice. *Ibid. ss.* 7, 8.

Accounts to be examined.

Guardians to make an order on the churchwardens or overseers for money necessary for the purposes of this act.

645. The guardians present at a monthly meeting, with the approbation of the visitor, who shall sign the same, may make an order on the churchwardens or overseers, or collector of the poor's rate, for so much money as shall be necessary for the purposes of this act, and upon neglect or refusal to pay the same, any justice of the division, on proof on oath of such default, may issue his warrant for levying by distress and sale of the goods and chattels of the churchwardens, &c. as in case of non-payment by the guardians. 41 *Geo.* 3. *c.* 9. *s.* 2.

All notices to be given to the guardians.

646. All notices or applications directed by act of parliament to be given or made to the overseers, with respect to the management or removal of the poor, shall be given and made to the guardian where any shall be appointed; but if any orders of removal or notices shall happen to be given to the churchwarden or overseer, the same shall be valid, and the churchwarden or overseer shall deliver the same to the guardian, or forfeit 40*s.* for his neglect. 22 *Geo.* 3. *c.* 83. *s.* 7.

Not to affect settlements.

647. Illegitimate children born in such workhouse under this act, shall not be settled in the parish where such workhouse is situated, but at the mother's settlement. *Ib. s.* 39.

Visitor to be appointed.

648. The guardians of united parishes shall, as soon after the agreement as possible, meet to nominate *three* persons as fit for the office of visitor; and afterwards apply to two justices, and produce to them the agreement and names of the said *three* persons. The justices shall within *three* days appoint one to be visitor. If he refuse, then one other. If he refuse, then the third. If he decline, the guardians shall serve monthly by rotation, subject to the control of the justices. The visitor, if he be not a guardian, may appoint a deputy to act for him in his absence, and make report to him. The visitor is to superintend every such house, to settle accounts between guardian and treasurer, in case of dispute, to settle all doubts concerning the persons who are to be sent thither, to enforce the rules and regulations for the better accommodation and relief of the poor, and to prevent unnecessary expense. And as an inducement for undertaking the office, the visitor or deputy shall be freed from the office of constable, and all parochial offices, and from serving upon juries at assizes or quarter sessions, whilst he continues in such office, and a certificate by a justice acting for the limit where he executes his office shall be evidence of his serving it. *Ib. s.* 10.

Visitor may appoint a deputy.

His duty.

The visitor or his deputy free from serving parish offices.

A single parish may have a visitor.

649. If two-thirds as aforesaid in number and value, in a single parish under this act, desire to have a visitor, they shall nominate, and the justices appoint as aforesaid. *Ib. s.* 11.

Treasurer may be appointed.

650. And the guardians shall recommend to the justices one of their own body for a treasurer, who shall appoint him accordingly, or any other guardian whom they think more fit; which treasurer shall give security for duly accounting, and shall keep accounts, pay bills, and lay his account before the guardians at every meeting, and shall *once* a year, (14 days before *Michaelmas* quarter sessions), make out an account of the expenses attending the poor-house, and of the number of poor persons, distinguishing their age and sex, and how they have been employed, and how much money has been earned by the labour of the poor in the year preceding, to be laid before

Account to be made once a year.

the visitor, and certified under his hands if he approves the same, and shall be transmitted to the clerk of the peace or town clerk, and by him laid before the sessions; and such treasurer shall be allowed an annual sum not exceeding 10*l.*, as the visitor, (if not a guardian,) shall appoint; and if there is no such visitor, then, as two justices shall appoint. *Ibid. s.* 12.

Treasurer for the poor-house of a single parish.

651. Any two justices of the district where the parish is, to whom the expediency of the appointment shall be made appear, by application of two-thirds of owners in value, &c. qualified as aforesaid, may appoint a treasurer for the poorhouse of a single parish, with a salary not exceeding 10*l.*, according to the form in 22 *Geo.* 3. for united parishes. 41 *Geo.* 3. *c.* 9. *s.* 3. (b. B.)

Governor may be appointed.

652. The justices shall also appoint a governor of each poor-house, upon application made by two of those who signed the agreement: who may, upon proof of *misbehaviour* or *incapacity*, be removed by the visitor with the consent of the guardians, or the major part of them; or if a guardian be visitor, by two justices within the limit. 22 *Geo.* 3. *c.* 83. *s.* 9.

Determination of the office of guardian, &c.

653. The offices of guardian, governor, visitor, and treasurer, shall determine in *Easter* week next after the appointment, on the day on which the public meeting for the purposes of this act shall be held. *Ibid. s.* 14.

In case of vacancy in the office of guardian, &c.

654. If any vacancy shall happen in any of the said offices, by death, resignation, or removal, meetings shall be called as soon as conveniently may be, and the vacancy filled up in the manner before mentioned. *Ibid. s.* 13.

Poor-houses to be provided or built.

655. The guardians shall provide houses, with proper buildings and accommodations, either by erecting new ones on land to be purchased or rented by them, altering old ones, or hiring buildings for the purpose; and fit them up with the advice and approbation of the visitor, at the proportionable expense of the several places respectively, and provide utensils and materials for the employment of the poor. *Ibid. s.* 17.

656. Provided that such poor-house shall be situate within the respective parish or township, or if several be united, then within one of the parishes or townships so united; and not elsewhere, without the consent of *three* parts in *four* in number and value qualified as aforesaid, to be assembled as aforesaid. *Ibid. s.* 18. Where poor-houses to be situated.

657. And the guardians, with the approbation of the persons qualified as aforesaid, obtained at a public meeting for that purpose, may sell any house erected or purchased for the poor of such place, and apply the money for the purposes of this act; and also by order of a justice may remove the person or persons who shall inhabit the same, or any other house rented or provided at the expense of such parish or place, if they shall refuse to quit after 14 days' notice. *Ibid. s.* 43. Poor-houses, &c. may be sold.

658. The guardians, or the visitor and guardians, under the direction of the inhabitants in vestry, with consent of two justices of the county, may sell any workhouse, or other houses, tenements, or buildings, &c. with the appurtenances, which have been purchased or erected by the parish, &c. for the purposes of the 22 *Geo.* 3. *c.* 83. 1 *and* 2 *Geo.* 4. *c.* 56. *s.* 1. Guardians may sell workhouses, &c.

659. The money arising from the sale to be applied in defraying the expenses of the sale, paying off mortgages, or other incumbrances and debts contracted by the guardians, &c. and the residue to be paid by guardians to the churchwardens and overseers, to be applied as part of the poor rates, to be collected for the relief of the poor. *Ibid. s.* 2. The money arising by sale, after paying debts, &c. to go in aid of the poor rate.

660. The houses to be hired or rented, shall be taken for not more than twenty-one years, nor less than three; which shall be free from all parochial and parliamentary taxes, (except such and to such amount as they were assessed at the time of taking thereof.) 22 *Geo.* 3. *c.* 83. *s.* 19. Poor-houses may be hired or rented.

661. The visitor and guardian shall be a body corporate, and enabled by that name to sue and be sued, to take by purchase or lease any lands not exceeding in any city or town *one acre*, and in the open country *twenty acres*, for the site of a house, and for lands Visitor and guardian may purchase land, &c.

to be occupied for the purposes of this act: and also all voluntary grants and donations of land. *Ibid. s.* 21.

Certain persons may sell or lease.

662. Certain bodies and persons in the act named shall have power to sell or lease not exceeding the quantities aforesaid. *Ibid. ss.* 22, 23.

Commons may be enclosed.

663. The guardians may inclose from any waste or common, lying near or adjoining to the house, with consent of the lord of the manor, and the major part in value of the freeholders, or persons having right of common thereon, any quantity not exceeding *ten* acres, for building upon or improving the same for the benefit of such poor-house. *Ibid. s.* 27.

Visitor and guardian may borrow money.

664. The visitor and guardian, where the expenses of erecting the building, and purchasing the land, or their proportion thereof respectively, shall amount to 100*l.* or upwards, may borrow the same at interest, and secure the same by a charge upon the poor rate, in sums not exceeding 50*l.* each, for the greater ease in discharging the same: and the guardians and their successors shall keep down the interest: and when the principal shall be called for, they may borrow it from some other person by assignment of the security. *Ibid. s.* 20.

If money is borrowed for building poor-houses, &c. the poor rate to continue at the same rate.

665. In case any money shall be borrowed under the powers of this act, for the building any poor-house or workhouse, or purchasing any land necessary to be used for that purpose, the assessments for the relief of the poor shall continue at the same rate they were when such poor-house or workhouse was first established, until the debts so contracted, and the interest thereof, should be fully discharged. 43 *Geo.* 3. *c.* 110. *s.* 1.

Guardians to pay off money borrowed by yearly payments.

666. Guardians of the poor of any parish who have erected any poor-house or workhouse under the powers of the said therein recited act, shall with the consent of the several persons to whom the same shall be due and payable, yearly pay off any part of the money borrowed under the powers of the said recited act of 22 *Geo.* 2. not being less than one-*twentieth* part thereof, besides the interest which may be payable on the sum remaining undischarged; and in case such sum to be paid off shall not in any

one year be sufficient to discharge any one of the notes for 50*l.* issued pursuant to the directions of the said recited act, for securing the money shall from time to time remain in the hands of the overseers of the poor of such parish, until it amounted to a sufficient sum to pay off and discharge any of the said notes. 42 *Geo.* 3. *c.* 74.

667. Doubts were entertained whether the act of the 42 *Geo.* 3. has effectually relieved such parishes as have adopted the provision in the said act of 22 *Geo.* 3. from the burthensome effects thereof; it was therefore enacted, that so much of the said recited act of 22 *Geo.* 3. *c.* 83. *s.* 20. as requires that the assessments for the relief of the poor shall continue at the same rate as they were when any poor-house or workhouse was first established under the authority of the said recited act, until the debt contracted, and the interest thereof, should be fully discharged, shall be *repealed.* *Ibid.* Part of the act repealed.

668. And such assessments shall from time to time be diminished to such amount as shall be deemed proper and necessary: provided always that the guardians of the poor, for the time being, of every such parish, shall yearly pay off or provide for a *twentieth* part at least of any moneys which shall have been borrowed for the purpose aforesaid, under the powers of the said act of 22 *Geo.* 3. and also shall duly keep down the interest of all moneys which shall be so borrowed. *Ibid. s.* 2. Assessments to be diminished, and interest to be kept down.

669. Every person sent to the house shall deliver to the governor or his assistant, an order for his admission (in the form or to the effect contained in the schedule to the act), signed by one of the guardians. 22 *Geo.* 3. *c.* 83. *s.* 28. Persons sent to the poor-house.

670. But no person shall be sent to such poor-house, except such as are become indigent *by old age, sickness, or infirmities, and are unable to acquire a maintenance by their labour, and except such orphan children as shall be sent thither by order of the guardian with the approbation of the visitor, and except such children as shall necessarily go with their mothers thither for sustenance.* *Ibid. s.* 29. If no persons are to be sent to the poor-house.

Infant children chargeable may be sent to the workhouse, or put out to nurse.

671. All infant children of tender years, and who from accident or misfortune shall become chargeable to the parish or place to which they belong, may be either sent to such poor-house, or be placed by the guardian, with the approbation of the visitor, with some reputable person *in or near* the parish to which they belong, at such weekly allowance as shall be agreed upon, with the approbation of the visitor, until such child shall be of age to go to service, or be bound apprentice to husbandry, or trade, or other occupation; and the visitor shall see that they are properly treated, or cause them to be removed and placed under the care of some other person; and when such child shall attain such age, he shall be placed out at the expense of the place to which he shall belong, according to the laws in being: provided, that if the parents or relations of such poor child, so sent to such house or so placed out, or any other responsible person, shall desire to receive and provide for such poor child, the guardian shall dismiss him from the poor-house, and deliver him to such parent, &c.: provided also, that nothing herein shall give any power to separate any child under the age of *seven years* from his parent or parents without their consent. *Ibid. s.* 30.

Children to be placed out.

Idle and disorderly persons able to work, but unwilling, to be prosecuted as idle and disorderly persons.

672. All idle or disorderly persons, who are able, but unwilling to work or maintain themselves and families, shall be prosecuted by the guardians, and punished as idle and disorderly persons are directed to be by the vagrant act of 17 *Geo.* 2.* And if any guardian shall neglect to make complaint thereof against such person to some neighbouring justice within *ten* days after it shall come to his knowledge, he shall forfeit a sum not exceeding 5*l.* nor less than 20*s.*, half thereof to be paid to the informer, and half as other forfeitures are directed to be disposed by this act. *Ibid. s.* 31.

Poor persons able and willing to work, but who

673. Where there shall be any poor person able and willing to work, but *who cannot* get employ-

* *See also the* 5 *Geo.* 4. *c.* 83. *s.* 3. (*Vagrant Act,*) as to the punishment of such persons.

ment, the guardian may agree for the labour of such poor person at any employment suited to his strength and capacity, *and maintain him until such employment shall be procured, and during the time of such work, and receive the money earned, and apply it in such maintenance, and make up the deficiency;* and if the money earned exceed the sum expended in maintenance, shall account for the surplus, which shall in one month be given to such poor person, if no further expenses be then incurred: and if such poor person shall refuse to work, or run away from such employment, the guardian shall complain to a justice, who shall, on conviction, commit the offender to the house of correction, there to be kept to hard labour not exceeding three calendar months, nor less than one. *Ibid. s.* 32.

cannot get employment, to be provided for.

Refusing to work, or running away, to be punished.

674. From the time that any parish, township, or place shall have adopted the provisions of this act, so much of the act 9 *Geo.* 1. *c.* 7. as respects the maintaining or hiring out the labour of the poor by contract shall be repealed. 22 *Geo.* 3. *c.* 83. *s.* 1.

Farming out the poor.

675. The visitors and guardians may make agreements with any person for the diet or clothing of such poor persons who shall be sent to the workhouses provided by this act, and for their work and labour; so that no such agreement be made for longer than *twelve months*, and so as the same be under the control of the visitor, guardian, and governor, and also of the justices where the houses shall be, two of which justices, upon proof of abuse, shall have power to dissolve the contract. *Ibid. s.* 2.

Visitors and guardians may agree for the diet or clothing of the poor.

676. On complaint upon oath to a justice, on behalf of any poor person belonging to any parish or place, that the guardian, upon application made to him, hath refused such poor person proper relief, the justice (on inquiry into the circumstances upon oath), by writing under his hand, may order some weekly or other relief, or direct such guardian to send him to the poor-house, if he shall appear to be a fit object, to be kept and provided for there; which order shall be complied with by the guardian within *two days*

Justices may order weekly or other relief.

after he shall receive the same, on pain of *5l.* of which sum so much shall be paid to such poor person as the justice shall direct, the remainder to be applied as the other penalties by this act. *Ibid.* 5. 77.

If poor persons making complaint shall appear to be idle, may be committed to the house of correction.

677. Or if it shall appear that such person is able and willing to work, but wants employment, the justice may order the guardian to procure him maintenance and employment in the manner before directed, on pain of *5l.* for neglect by the guardian after due notice: or if such person shall appear to be *an idle* or *disorderly* person, and has not used *proper means to get employment;* or that the husband or father of such person making such complaint is *an idle* or *disorderly* person, able to work, but *by his neglect of work, or for want of seeking employment, or by spending the money he earns in alehouses or places of bad repute,* doth not maintain his wife and children, the justice may commit the husband of such poor woman, or the father of such poor child, to the house of correction for any time not exceeding three calendar months, nor less than one. *Ib. s.* 35. (*See note, p.* 186.)

Where there is a visitor the application must be first made to the guardian.

678. In places where a visitor is appointed, application shall be first made to the guardian; and if he refuses redress, then application shall be made to the visitor; and if he refuses, then application shall be made to a justice *. *Ib. s.* 36.

Justices may order relief for a limited time.

679. When any complaint shall be made to any justice of the peace, of the want of adequate relief,

---

* Where the guardians and visitor of a parish, which has adopted the provisions of the 22 *Geo.* 3. *c.* 83, upon application to them for relief by a pauper for herself and children, directed them to be relieved in the poorhouse, it was held that *one* justice had no jurisdiction upon complaint to him by the pauper to order relief out of the poorhouse. *Rex v. Laughton, S. T.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 324. *Bott continued to* 1814, 40.

by or on the behalf of any poor inhabitant of a parish in which the relief of the poor is or shall be under the management of guardians, governors, or directors appointed by virtue of special or local acts, such justice shall not proceed therein, or take cognizance thereof, unless it shall be proved on oath before him, that application for such relief hath been first made to, and refused by such guardians, governors, or directors; and in such case the justice to whom the complaint shall be made may summon the overseers of the poor, or any of them, to appear before any two of his majesty's justices of the peace, to answer the complaint; and if upon the hearing thereof it shall be proved on oath, to the satisfaction of the justices who shall hear the same, that the party complaining, or on whose behalf the complaint shall be made, is in need of relief, and that adequate relief hath been refused by such guardians, governors, or directors, it shall be lawful for such justices to make an order, under their hands and seals for such relief as they, in their just and proper discretion shall think necessary (reference being also had by such justices to the character and conduct of the applicant): provided, that in every such order the special cause of granting the relief thereby directed, shall be expressly stated, and that no such order shall be given for or extend to any longer time than one month from the date thereof; provided that it shall be lawful for any justice to make an order for relief *in case of urgent necessity*, to be specified in such order, so as such order shall remain in force only until the assembling of such guardians, governors, or directors, as aforesaid, to which such case shall relate. 59 *Geo.* 3. *c.* 12. *s.* 2.

Overseers may be summoned to answer complaints for not relieving the poor.

The special cause of granting relief to be stated in the order.

Any justice may order relief in case of need.

680. After reciting that by stat. 22 *Geo.* 3, c. 83, it was enacted, with regard to parishes which have adopted the provisions thereof and for which a visitor shall have been appointed, that no guardian of the poor shall be summoned to appear before any justice of the peace, upon complaint or application to such justice for the relief of any poor person, unless application shall have been first made by the

Where relief may be ordered without previous application to the visitor.

person so complaining to the guardian, and upon his refusal of redress, to the visitor; and that in many cases, by reason of the absence of the visitor, or the distance of his residence, it may not be in the power of the complainant to make the application by the said act required; for remedy thereof, it was enacted "that if it shall be made to appear to any justice to whom any such complaint or application for relief shall be made, that the visitor of the parish or united parishes from which relief shall be sought is absent from home, or is resident more than *six* miles from the place of abode of the complainant, and that application for relief hath been made to the guardian, and hath been refused, it shall be lawful for such justice to summon the guardian to appear before him to answer such complaint, and to proceed thereon, and make such order therein as the case shall require, in like manner as in cases where application hath been made to the visitor, in the manner by the said act directed." *Ibid. s.* 27.

Maintenance of the poor.

681. Poor persons sent to such house shall be maintained at the general expense of the parishes or places uniting. 22 *Geo.* 3. *c.* 83. *s.* 24.

Treasurer to provide necessaries.

682. And the treasurer, with the assistance of the governor, shall provide all necessaries for the maintenance of such poor, and keep an account thereof. *Ibid.*

Guardian to provide clothing.

683. The guardian shall provide, at the expense of such parish or place, suitable clothing for the persons sent by him to such poorhouse; which if he shall neglect to do, the governor or one of the guardians of such house, shall complain to a neighbouring justice, who shall summon the guardian so neglecting, to answer such complaint, and direct him to provide such clothing as shall appear to the justices to be necessary; and if he shall make default in providing the same within *ten* days after such direction, the justice shall order the governor of such poorhouse, or the guardian making such complaint, to provide the same, and demand from the guardians making neglect, the charges for such clothing, and in default of payment shall levy the price

thereof, together with costs and charges, by distress and sale of the goods of such guardian so making default. *Ibid. s.* 33.

Contractors must reside in the parish.

684. Contractors for providing maintenance for the poor must reside in the parish. 45 *Geo.* 3. *c.* 54, *and* 57 *Geo.* 3. *c.* 127. *s.* 7.

Monthly meetings.

685. And there shall be a meeting of the guardians at the poorhouse, on the first *Monday* in every month, to state and examine the accounts of the preceding month. 22 *Geo.* 3. *c.* 83. *s.* 24.

At which the treasurer shall produce his account.

686. At which meeting the treasurer shall produce his accounts, and the money due to him shall be settled and adjusted in proportion to the sums paid by the respective parishes or places on a medium of three years, next before the date of such agreement in writing. And the churchwarden or overseer, who shall have the custody of the poor's rates or account, shall attend on *four* days' notice, and give an account of what has been the expense at a medium of three years, or in default shall forfeit 5*l.*

Guardian, or some person for him, not attending monthly meetings forfeits not more than 5*l.*

687. And if the guardian shall not attend the monthly meeting, or send some person (*a substantial inhabitant*) to attend and make payments for him (if by some accident he cannot attend himself) he shall forfeit not exceeding 5*l.* nor less than 40*s.* *Ibid. s.* 25 *and* 26.

Justices may hold special sessions for the purposes of this act.

688. The justices may hold *special sessions* for the purposes of this act; on giving proper notices to the several justices, peace officers, and guardians. *Ibid. s.* 16.

As to what justices may act.

689. If within any limit wherein any poorhouse be situate there be no *acting* justice, or only *one acting* justice, or if the justice or justices who usually act be absent or be incapacitated to act, it shall be lawful for *any* justice or justices of any other limit to act in all such cases. *Ibid. s.* 15.

Poor person embezzling or wasting goods, &c. committed to his care.

690. If any poor person sent to such house shall embezzle or wilfully waste any of the goods or materials committed to his care, or shall take or carry away without permission of the governor, any goods or materials provided for the use of the house, or belonging to any person residing there, he shall upon

complaint on oath made on conviction, be committed to the house of correction, there to be kept to hard labour, not exceeding *six* calendar months, nor less than *two*. *Ibid. s.* 40.

No officer to furnish goods, clothes, or provisions, or do any work for the use of the workhouse.

691. If any visitor, guardian, or governor, shall sell or furnish any materials, goods, clothes, victuals, or provisions; or do any work in his trade for the use of any workhouse, poorhouse, or poor persons within any place for which he shall be appointed to act; or be concerned in trade or interest with any person who shall sell or furnish the same; he shall forfeit not exceeding 20*l.* nor less than 5*l.* on due conviction by a justice of peace. *Ibid. s.* 42.

Occasional poor falling sick.

692. If any poor person shall be retarded on his passage through any parish or place in which he has no legal settlement, by reason of any accident, sickness, or bodily infirmity, without means of subsistence, or of proceeding to the place of his settlement, the guardian near the place where such distressed object shall be, shall provide for him lodging and suitable nourishment and assistance (and clothing if necessary) until he can be removed with safety; and when he shall be fit to be removed, shall carry him to some *neighbouring justices*, who shall examine him on oath touching the place of his settlement, and make an order for his removal thither if they think fit. And the parish officer who shall so provide for such poor person shall make a charge of the expenses, which, on being allowed and certified by the justices before whom he shall be taken, or some neighbouring justice, shall be paid by the guardian of the parish or place where such poor person shall be settled, if that can be discovered, and be within the county; in default of payment, the same shall be levied upon the goods and chattels of any such guardian, so making default, after summons, by warrant of a justice; or if such person shall die before he can be so examined, or shall be found dead in any parish or place to which he did not belong, the guardian there shall cause him to be buried in the parish or place where he so died, or was found dead, and make a charge of the expenses thereof, which shall

To be provided for, until they can be removed with safety.

Expenses to be paid by the parish to which such poor person shall belong.

If such poor person shall die, or if any such be found dead in a parish.

be allowed and certified by a justice, after examining into his settlement, and shall be paid by the guardian of the place where such person shall appear to have been settled, if it be within that county; but if the settlement cannot be discovered, or shall not be within that county, the same shall be paid by the treasurer out of the county rate on the production of such allowance and certificate. *Ibid. s.* 38.

Entering or conveying away poor children, pregnant women, or other afflicted persons from one parish to another without an order of removal.

693. It frequently happens that poor children, pregnant women, or persons afflicted with sickness or some bodily infirmity, are enticed, taken, or conveyed by parish officers, or other persons, from one parish or place to another, without any legal order of removal, in order to ease the one parish or place, and to burden the other with such poor persons; if any guardian or other person shall so entice, take, convey, or remove, or cause or procure to be so enticed, taken, conveyed, or removed, any such poor person from one parish or place to another, which shall adopt the provisions of this act, without an order of removal from two justices, he shall forfeit not exceeding 20*l.* nor less than 5*l.* *Ibid. s.* 41.

Penalties, how to be recovered.

694. All penalties inflicted by this act shall be recovered before one justice of the jurisdiction where the offender dwells, by distress upon conviction in default of payment, after due summons and demand made; for want of sufficient distress, the offender to be committed to the house of correction not exceeding *six* calendar months, nor less than *one*, which said penalties, not otherwise directed, shall be paid to the treasurer towards defraying the monthly expenses of the house. *Ibid. s.* 45.

Rules and regulations to be observed in a poor-house.

695. There are rules, orders, and regulations specified in the act, to be observed at every such poorhouse, with such additions as shall be made by the justices at a special sessions: provided, that such additions be not contradictory to these same rules and orders, and that the same be not repealed at the quarter sessions: and the governors shall cause the rules to be printed in plain legible characters, and fixed up in some conspicuous part of such house. *Ibid. s.* 34.

Appeal to the next general quarter sessions.

696. Persons aggrieved by any act done by any justice *out of sessions*, concerning the execution of this act, may appeal to the *next* general quarter sessions, giving *eight* days' notice to the party against whom complaint is made, and surety by recognizance to be acknowledged before a justice, with a sufficient security to pay the costs of the appeal if determined against the appellant: And the justices are to hear and determine such appeals, and to award costs for or against appellants as they shall see cause; which determination shall be final, and not be removed by *certiorari*. *Ibid. s.* 46.

Rules, orders, bye-laws, and regulations under this act extended to poorhouses in other parishes.

697. The rules, orders, bye-laws, and regulations, appointed to be observed and enforced in every poorhouse established under the authority of the said act of 22 *Geo.* 3. are extended to poorhouses and workhouses established in other parishes; and any two or more of his majesty's justices of the peace, at any petty sessions, may direct such rules, orders, bye-laws and regulations, or any of them, to be observed and executed in any parishes within their respective divisions or districts, as fully as in those incorporated by the said act. 49 *Geo.* 3. *c.* 124. *s.* 5.

Two justices may direct such rules, &c. with additions, to be observed in workhouses where there is no master or mistress.

698. Any two or more of his majesty's justices of the peace within their respective limits, may at any session direct the rules, orders, and regulations in the schedule to the said act of 22 *Geo.* 3. specified and contained, or any of them, with such additions as shall be made by such justices, to be observed and enforced in the workhouses or poorhouses, or any houses set apart for that purpose, although there should be no master or mistress to superintend the same, of any parish or place within their respective divisions or districts, as fully and effectually as the rules and orders by the said act of 22 *Geo.* 3. established, are to be observed and enforced within the parishes adopting the provisions of the same act; and that it shall be lawful for two or more such justices, in any special session from time to time, as they shall see occasion, to add and to alter the rules, orders, and regulations which shall at any special sessions have been made and ordered to be observed,

provided that no addition or alteration to be made by such justices shall be contradictory to the rules, orders, and regulations established by the said act of the 22 *Geo.* 3. and provided that the same shall not be repealed by the justices at their quarter session of the peace; and for enforcing and carrying into execution such rules, orders, and regulations in every parish and place where the same shall be established by virtue of this act, every justice of the peace shall for that purpose have the powers by the said act of the 22 *Geo.* 3. vested in visitors of the poor; and all churchwardens and overseers within their respective parishes and townships, shall have and exercise the powers, and shall perform the duties by the same act vested in and imposed upon governors of the poor. 50 *Geo.* 3. *c.* 50. *s.* 1.

In case of any breach of the rules.

699. Any breach of the rules and orders to be put in force by virtue of this act, shall be punished in such manner as for the breach of the rules and orders to be enforced under the act of the 22 *Geo.* 3. *c.* 83. *See* 54 *Geo.* 3. *c.* 107. *s.* 7.

Overseers' Accounts.

Accounts to be passed.

700. The churchwardens and overseers, whilst in office, and at the expiration thereof, must pass their accounts. The accounts required to be passed are, of all moneys recovered by them under the 5 *Geo.* 2. *c.* 8. authorizing them to levy on the property of husbands and parents who leave their children chargeable to the parish; this account must be rendered to the quarter sessions:—what they shall receive under the 17 *Geo.* 2. *c.* 5. *s.* 20. authorizing them to levy in certain cases on the property of lunatics:—the accounts of churchwardens and overseers, their payments under the workhouse act, the 22 *Geo.* 3. *c.* 83. *s.* 8., if the provision of the act have been agreed to be adopted by the parish, to be examined at any monthly meeting of the guardians, and shall be examined and passed quarterly by the visitor, having been verified on oath; and the churchwardens or overseers who shall have the custody of the poor's rate, assessment, or amount, shall, after *four* days'

Property of lunatics.

notice, produce them when required to the persons named in the agreement, for uniting parishes made by the guardians under that act, under a penalty of five pounds.

Militia accounts.

701. By the militia act, all accounts of allowances to be reimbursed under that act shall be made up at the end of every successive *six* months, or shorter period, from the commencement of such payments, and signed by the justices granting certificates for reimbursement or some other justices of the county, within *one* month after the period to which such accounts shall be made up, and the money due shall as soon as possible be demanded of the overseers or treasurer of the county required to make such reimbursement; and no such sum shall be demandable unless the same shall have been so certified within *one* month as aforesaid, and delivered to the reimbursing overseer or treasurer within *three* months after such certifying thereof. 43 *Geo.* 3. *c.* 47.

Constables', &c. accounts.

702. Overseers are to lay the accounts of constables, headboroughs, and tithing-men, for reimbursement, before the parishioners quarterly, within *fourteen* days after the same shall have been delivered by the constables. 18 *Geo.* 3. *c.* 19.

Money expended on the binding out apprentices.

703. Overseers are required, yearly, in Easter week, or within one month after *Easter-day*, to make an account before *four*, *three*, or *two* justices of the peace, of all sums employed by them in binding out apprentices, and of all bonds and obligations for payment of such sums, and of all moneys remaining in their hands not employed; and at (*or within ten days after*) making the account, deliver to their successors all such bonds, obligations, and money unemployed. 7 *Jac.* 1. *c.* 3. (*see pl.* 707, *p.* 197.)

The final account with the parish.

704. The churchwardens and overseers shall, within *four* days after the end of the year, and after other overseers are nominated, make and yield up to *two* justices an account of all sums by them received, or rated and assessed and not received, and of such stock as shall then be in their hands, or in the hands of any of the poor, and of all other things concerning their office; and all money in their hands they shall pay over to their successors. 43 *Eliz. c.* 2. *s.* 2.

705. The new churchwardens or overseers, by warrant of any *two* justices, may levy by distress and sale of the offender's goods, the said sums or stock which shall be behind on any account made by them; and in default of distress, two such justices may commit him to the common gaol, without bail or mainprize, until payment. *Ibid. s.* 4. Balance may be levied by distress and sale.

706. And such justices may commit to prison *every one* of the churchwardens and overseers which refuse to account, there to remain without bail or mainprize until he shall make a true account, and pay over the balance in his hands. *Ibid.* Churchwarden or overseer may be committed to prison until he makes over his accounts, &c.

707. The churchwardens and overseers shall yearly deliver, *within fourteen* days after new overseers are appointed, to the new overseers a just, true, and perfect account in writing, fairly entered in a book, which account must be verified on oath before one justice, who shall sign and attest the taking thereof at the foot of the account; and shall also pay and deliver over all sums of money, goods, chattels, and materials, as shall be in their hands, to the succeeding overseers; the books of account may be inspected by any person assessed, on payment of 6*d.* for such inspection, who may also take copies thereof on payment of 6*d.* for every 300 words. 17 *Geo.* 2. *c.* 28. *s.* 1. At what period churchwardens and overseers shall make up their accounts.

708. Churchwardens and overseers refusing or neglecting to render such account, or to pay or deliver over to their successors such sums of money, goods, &c. in their hands, may be committed by warrant of *two* justices to the common gaol *until they do account* or pay over and yield up the moneys, goods, &c. *Ibid. s.* 2. (*See pl.* 711, *p.* 198, *post.*) Parish officers neglecting to account.

709. A conviction by two justices under the 17 *Geo.* 2. *c.* 38. upon the complaint of the overseers of a parish against the late overseer for refusing and neglecting to deliver over to them a certain book belonging to the parish called "*the bastardy ledger,*" convicting him of the said offence, and adjudging that he should be committed to the *common gaol,* to be safely kept *until he should have yielded up all and every the books concerning his said office of overseer belonging to the parish,* was held void as to the adju- Conviction of a late overseer for not delivering up a certain book called "the Bastardy Ledger."

dication respecting the imprisonment, for excess, the same extending beyond what was previously required of the person convicted; and a warrant of commitment founded on this conviction, and directing the gaoler to keep him in the term of the adjudication, was also held to be void *in toto*, for which trespass and false imprisonment would lie against the justices, although the conviction had been quashed. *Groome v. Forrester, D. D. and another, T.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports*, 314.

The account to be submitted to two or more justices at special sessions.

710. Two or more justices are empowered to examine, correct, allow, and approve the accounts of churchwardens and overseers; which accounts must be submitted to them at a *special sessions* for that purpose to be held within the *fourteen* days appointed by the 17 *Geo.* 2. *c.* 38. above-mentioned (*pl.* 707, *p.* 197,) for delivering such account, and such justices shall, if they think fit, examine into the matter thereof, and administer an oath or affirmation to such churchwardens and overseers, of the truth of such account, and disallow and strike out of such account all such charges and payments as they shall deem to be unfounded, and reduce such as they shall deem exorbitant, specifying upon or at the foot of the account every such charge or payment, and its amount, so far as such justices shall disallow or reduce the same, and the cause for which the same is disallowed or reduced; and such justices shall signify their allowance or approbation of any such account under their hands, and sign and attest the caption of the same at the foot of such account, as directed by the 17 *Geo.* 2. 50 *Geo.* 3. *c.* 49*. *s.* 1.

Refusing or neglecting to account, and verify it on oath.

711. In case the churchwardens and overseers, *or any of them*, shall refuse and neglect to make and yield up or submit such account, *or to verify the same*

---

* Intituled, "An act to amend the laws for the relief of the poor as far as relate to the examining and allowing the accounts of churchwardens and overseers by justices of the peace." (Passed 9 June, 1810.)

on oath as aforesaid, or to deliver over the same to their successors within *ten* days from the signing and attesting thereof, any goods, chattels, or other things, which on the examination and allowance thereof in manner aforesaid, shall appear to be remaining in their hands, any *two* or more justices shall commit them to the common gaol until they shall have made and yielded such account, and verified the same as aforesaid, or shall have delivered over such goods, chattels, or other things which shall appear to be so remaining in their hands as aforesaid; and in case the churchwardens and overseers, *or any of them*, shall refuse or neglect to pay to their successors, within *fourteen* days from the signing and attesting the accounts, any money or arrearages which on the examination and allowance shall appear to be due from them, or any of them, or remaining in their hands, the subsequent churchwardens and overseers shall, by warrant from any *two* justices, levy such money by distress and sale of the offender's goods, and in default of distress, the justices may commit the offender to the *common gaol* of the county, there to remain until payment of such money or arrearages. *Ibid.*

Penalty for such refusal or neglect.

712. If the churchwardens or overseers are aggrieved by the disallowance or alteration by the magistrates of any of the charges in their accounts, they may appeal at the *next quarter sessions* to be held *next after* the tenth day from making the order, but they must first pay or deliver over to the succeeding overseers such money, goods, chattels, and other things which shall appear by such account to be in their hands; and must also enter into recognizance before a justice of the peace with *two sureties* in not less than *double* the value of the disputed charges, to enter and try the appeal; and the justices at sessions may confirm or reverse such allowance or reduction, in whole or in part, and may also allow (if they think fit) costs to the churchwardens and overseers on such appeal, such costs to be paid out of the poor's rate. *Ibid. s.* 2.

Parish officers aggrieved by the disallowance or alteration by the justices, may appeal to the next quarter sessions.

713. A churchwarden may be punished as an

Churchwarden

may be punished as an overseer.

overseer, but in the commitment he must be called *overseer*. *Rex v. Peake, M.* 15 *Car.* 2. 1 *Keble's Reports.*

The subjects of the account.

714. The subjects of the account are not only all moneys *received* and *paid* by the parish officers, but also all sums *assessed*, but *not received*—of all *goods, chattels, stock,* and *materials* in their hands, or in the hands of the poor to be worked, and all *other things* concerning their office. They are entitled to charge what they have *bonâ fide* expended in providing work for the children of indigent parents, and for persons having no means of livelihood, in relieving such poor persons who have claims on the parish, and in the disposal of the stock raised for those purposes, and any money which they may have expended for the *good,* and on the *business* of the parish. *Rex v. Micklefield, Caldecott's Reports of Settlement Cases,* 509.

What they are entitled to charge.

715. They are also entitled to charge in their accounts whatever they have paid under the direction of an act of parliament, or under *any order* made upon them, or other *legal* process, under the acts of 51 *Geo.* 3. *c.* 79 *. 59 *Geo.* 3. *c.* 160 †, &c., or for costs of maintenance, removal, or appeal. *See Rex v. Inhabitants of Essex.* (*See pl.* 717, *p.* 201, *ante.*)

Expenses of law-suits.

716. But it has never been decided whether the expenses of a *law-suit* incurred by parish officers without consulting the vestry, are chargeable in the account, unless probably where the *emergency* of the case allowed no time for the precaution. In order therefore for the overseers to obtain the allowance of *law charges,* they must not have *unnecessarily*

---

* Intituled "An act to amend an act of the 43d year of his present Majesty for the better care and maintenance of lunatics being paupers or criminals in England." (Passed 15th June, 1811.)

† Intituled "An act to enable justices of the peace to order parochial relief to prisoners confined under mesne process for debt in such gaols as are not county gaols." (Passed 29th July, 1819.)

contracted them. In some instances, the statutes which direct the expenditure of money authorize the overseers in express terms to charge it in their accounts, such as 2 *and* 3 *Anne, c.* 6 *. *s.* 2. as respect the payment of money at the binding of parish apprentices to the sea service, for clothing, &c. 17 *Geo.* 2. *c.* 5 †. *s.* 1. as to vagrants. 18 *Geo.* 3. *c.* 19 ‡. *s.* 4. as to the payment of constables' charges, &c. and 22 *Geo.* 3. *c.* 83 §. *s.* 8. (relating to guardians of the poor).

717. Overseers cannot charge any expenses of their own beyond what are barely necessary; and no salary for their own services. *Rex v. Lord Ashburnham,* 2 *Nolan's Poor Laws,* 346, 3*d edit. Rex v. Glyde,* 2 *Maule and Selwyn's Reports,* 323. *H.* 53 *Geo.* 3. 1 *Douglas's Reports,* 116. 1 *Bott,* 102. *Tauney's Case,* 1 *Bott,* 102 (*n*). Overseers cannot charge their own expenses.

718. But they are authorised to charge a salary to an assistant overseer. 59 *Geo.* 3. *c.* 12 ||. *s.* 7. Salary to an assistant.

---

* Intituled "An act for the increase of seamen and better encouragement of navigation and security of the coal trade." This act contains several regulations with respect to binding apprentices to the sea service. (*See p.* 30. *pl.* 58. *title Apprentices, ante.*)

† Intituled "An act to amend and make more effectual the laws relating to rogues, vagabonds, and other idle and disorderly persons, and to houses of correction."

‡ Intituled "An act for the payment of costs to parties on complaints determined before justices of peace out of sessions; for the payment of the charges of constables in certain cases; and for the more effectual payment of charges of witnesses and prosecutors of any larceny or other felony."

§ Intituled "An act for the better relief and employment of the poor."

|| Intituled "An act to amend the laws for the relief of the poor." (Select Vestry. Passed 31st March, 1819.)

When one officer is out of pocket and another has a surplus in hand.

719. If at the end of the year one officer is out of pocket while the other has a surplus in his hands, the sessions on appeal concerning the accounts, may direct the payment of the *deficiency* of the one out of the *surplus* of the other, although each officer acted for his own township, if these townships maintained their poor collectively. *Rex v. Limehouse, E.* 1 *Geo.* 1. *Foley's Poor Laws*, 22. 1 *Bott*, 310.

Overseers may reimburse themselves out of a subsequent rate during their year.

720. If overseers have advanced money for the good and on the business of the parish, they may reimburse themselves out of any *subsequent* rate made *during* their year; but although the money has been advanced for allowable law charges, or any other legitimate expense not forming an item of *immediate* relief to the poor, the rate, except in cases allowed by statute *, must not be specified to be for the repayment of the sums *laid out*, but for the *relief* of the poor, the general act 43 of *Eliz.* not authorizing any rate to be expressly made for any other purpose. *Rex v. Wavell and others*, 1 *Douglas's Reports*, 116. 1 *Bott*, 102. *Tauney's Case*, 1 *Bott*, 102, *n.* *Rex v. Mayor of Gloucester*, 1 *Bott*, 103. 5 *Term Reports*, 346. *And see Rex v. Micklefield, Caldecott's Reports of Settlement Cases*, 507. 1 *Bott*, 108.

If overseers neglect to pay themselves while in office.

721. Formerly, if an overseer neglected to pay himself while he continued in office, *he lost whatever he had advanced*, and even where he remained in office several successive years, he could not repay himself by a rate in one year what he had advanced in a preceding year, but was obliged to make up the account of each year with reference only to the items of that year. *Rex v. Goodcheap*, 6 *Term Reports*, 159. 1 *Bott*, 301.

The executors and overseers have no claim for payment by their successors.

722. Nor could he or his executors claim any repayment from his successors, even though the vestry consented. The reason was, that as the inhabitants

---

* As in the instances of workhouses, under the 59 *Geo.* 3. *c.* 12. *s.* 8. 9. 10. 14. 15. 16.

of a parish are a fluctuating body, the present would be burthened with the expenses of the former. *Tauney's Case. Rex v. Chichester. Rex v. Llandillo,* 1 *Bott,* 102, *n. Rex v. Ware. Foley's Poor Laws,* 10. 10 *Modern Reports,* 104, *and Rex v. Goodcheap.*

Succeeding overseers may reimburse the preceding.

723. The succeeding overseers, by levying and getting in the arrears of a rate made by their predecessors, but which, from refusal or neglect of the party rated they were not able to get in, may reimburse the advances of their predecessors to the extent of such arrears so got in. 17 *Geo.* 2. *c.* 38.* *s.* 11.

Preceding overseers may be reimbursed what they have advanced.

724. But now the preceding overseers may be reimbursed by their successors all sums which they have advanced during the time when no rate has been made, or when an appeal has been depending, by which the whole rate might be affected. So that unless the non-payment of the rate has arisen from the neglect of the officers themselves (which being no neglect or refusal of the party rated, does not come within the 17 *Geo.* 2. *c.* 38. *s.* 11. *above*), or unless the officers, having made and collected the rate, have been so imprudent as to assess it too low, in which case the relief given by the 41 *Geo.* 3. (*G. B.*) *c.* 23. *s.* 9. would not be applicable, the proper advances made by parish officers seem now secured to them, notwithstanding any conduct by which they may have been prevented from repaying themselves during their year of office. 41 *Geo.* 3. (*G. B.*) *c*, 23. *s.* 9.

The account must be fairly written in a book, and signed by the officers.

725. The account must be fairly written out in a book or books to be kept for that purpose, and signed by the officers, which must specify all sums of money either received, or rated and assessed without having been received, and all goods, chattels, stock,

---

* Intituled "An act for remedying some defects in the act made in the 43d year of the reign of queen Elizabeth, intituled 'An act for the relief of the poor.'"

and materials in the hands of the officers, or of the poor to be worked, and of all moneys which the officers have paid, and all other things concerning their office. 17 *Geo.* 2. *c.* 38. *s.* 1. *Walrond's Case,* 1 *Bott,* 300. *Rex v. Conocke,* 1 *Bott,* 299.

Time allowed for rendering the account.

726. The time allowed for rendering the account is *fourteen days from the nomination of the succeeding overseers.*

Until the end of such time, the parish cannot call for the account.

727. And until the expiration of that time, the parish has no right to call for an adjustment, unless where an overseer leaves the district, or dies. *Ibid.* *s.* 3. *Rex v. Tucker, pl.* 742, *p.* 206, *post.*

Delivery of the account not dispensed with.

728. And the delivery of the account at the end of the year, and within the *fourteen days* as above, is not dispensed with by the 50 *Geo.* 3. *c.* 49 *. *s.* 1. (*See pl.* 710, *p.* 198, *ante.*)

Account to be submitted to two justices at special sessions.

729. The old churchwardens and overseers shall submit the account to *two* or *more* justices of the county at a *special sessions* for that purpose, within *fourteen* days from the nomination of the succeeding officers; and the justices may examine the matter of such account, and administer an oath or *affirmation* as to its truth, and disallow such charges and payments as they shall deem unfounded, and reduce such as shall seem exorbitant, stating at the foot thereof every such charge or payment and its amount which they shall disallow or reduce, and the cause of disallowance or reduction, and they shall signify their allowance and approbation under their hands at the foot of the account. *Lester's Case,* 16 *East's Reports,* 374.

Not to affect local accounts.

730. But not to affect parish officers exempt from receiving such accounts under the provisions of local acts. 50 *Geo.* 3. *c.* 49. *s.* 6.

---

* Intituled "An act to amend the laws for the relief of the poor, so far as relate to the examining and allowing the accounts of churchwardens and overseers by justices of the peace." (Passed 9th June, 1810.)

731. Justices cannot commit a man for not accounting before them, if he has accounted before any other magistrates similarly authorised. 2 *Nolan's Poor Laws*, 347, 3*d edit.* When justices cannot commit for not accounting.

732. Where the accounts have been laid before one set of justices, no other justice can meddle either spontaneously, or by delegation, to allow or disallow them, unless by order of the court of *K. B.*, nor can the sessions interfere in the original allowance. *Rex v. Turner*, 1 *Bott*, 299. *Rex v. Townshend*, 1 *Bott*, 304. *Rex v. Bartlett*, 1 *Bott*, 322. If the accounts have been laid before one set of justices.

733. If a parish extends into more counties than one, or lies partly within and partly without the liberties of a corporate place, the officers of such parish are to make one account before the head officer of the place corporate, and one before the justices of the county. 43 *Eliz. c.* 2. When the parish extends into more counties than one.

734. When the account is passed, the parish officers must deliver over to their successors "*all sums of money, goods, chattels, and other things, as shall be in their hands.*" The money in their hands or owing from them, they have fourteen days for paying; the goods, chattels, and other things, they must deliver over within ten days. 43 *Eliz. c.* 2. *s.* 2. (*pl.* 707, *p.* 197, *ante.*) 17 *Geo.* 3. *c.* 38. *s.* 1. (*pl.* 707, *p.* 197, *ante.*) 50 *Geo.* 3. *c.* 49. *s.* 1. When the account is passed.

735. The order of vestry will not justify them in retaining any part of the balance, even for parochial purposes: the statute is imperative as to the payment over, and the vestry cannot dispense with the statute. *Rex v. Justices of Somersetshire*, 1 *Bott*, 311. The order of vestry will not justify the retaining of a balance.

736. *Two justices* may make *an order* to compel the payment of the balance, but not *the quarter sessions*. *Rex v. Topsham*, 1 *Bott*, 722. *Rex v. Whitear*, 1 *Bott*, 308. *Rex v. Bartlett*, 322. Two justices may compel payment of balance.

737. And the order should be on all the officers of the *year*, to be accounted for; and if it is an order of the *year before the last*, it may direct them to pay to the present overseers, *omitting those of the intermediate years*. *Rex v. Bartlett*, 1 *Bott*, 322. The order to be to all the officers.

If no order to pay the balance made at sessions on appeal.

738. If, on an appeal respecting the accounts, no order has been made by the sessions to pay the balance, two justices out of sessions may enforce the payment; *for the balances are as much in arrear then as before the appeal*, only the quantum is not ascertained. *Rex v. Carter*, 1 *Bott*, 314.

Books of account to be kept in a public place for inspection.

739. After the new officers have received the book of accounts, they are to keep it in some public place, and to permit any person assessed, or liable to be assessed to the relief of the poor, to inspect it at all seasonable times, on payment of 6*d.*, and give copies thereof, or of any part of it, at the rate of 6*d.* for every 300 words, and so in proportion for a greater or less number. 17 *Geo.* 2. *c.* 28. *s.* 6.

Vestry to direct where the book shall be kept.

740. If there is a *vestry* in the parish, they may direct where and in whose custody the book may be kept. (*See* 58 *Geo.* 3. *c.* 69. *s.* 6. *Parish Vestry Act, pl.* 619, *p.* 168, *ante.*)

The balance in hand must be paid over.

741. The balance in the hands of the overseers must be paid over, and it is not in the power of the *vestry* to dispense with the statute, which says, *the balance shall be paid over to the new overseers. Rex v. Inhabitants of Somersetshire, M.* 8. *Geo.* 2. 2 *Strange's Reports*, 992. 1 *Bott*, 311. 2 *Nolan's Poor Laws*, 357, 3*d edit.*

Overseers are discharged by bankruptcy and certificate.

742. An overseer is discharged by bankruptcy and certificate from a debt due, in respect of a sum of money in his hands, as overseer, at the time of his bankruptcy, although it happens before the end of his year of office: *before such time he cannot be compelled to act. Rex v. Tucker, M.* 57 *Geo.* 3. 5 *Maule and Selwyn's Reports*, 508.

Justices may enforce payment of a balance after appeal.

743. Two justices out of sessions may enforce the payment of the balance after appeal, though the sessions did not make order for payment, the effect of an appeal ascertaining the *quantum* of the arrears, and then the statute attaches and enables the justices to enforce the payment. *Rex v. Sir J. Carter and Others, E.* 31 *Geo.* 3. 4 *Term Reports*, 246. 1 *Bott*, 314. 2 *Nolan's Poor Laws*, 356. 367, 3*d ed.*

744. The balance should be levied by distress, when payment is ordered by the sessions on appeal, and in default the offender may be committed. The sessions must execute their judgments in the same manner as two justices must. *Reg. v. Hodges, M. 4 Ann.* 2 *Salkeld's Reports*, 533. 1 *Bott*, 304. 2 *Nolan's Poor Laws*, 350. 353. 365, *3d edit.* Balance to be levied by distress.

745. If the accounts are adjusted, and the overseers refuse to pay the balance, they cannot be committed immediately, but a *warrant* of distress must issue to distrain upon them, and upon the return thereof, then there may be a commitment. *Reg. v. Turner, E.* 9 *Ann.* 1 *Bott*, 310. 2 *Nolan's Poor* 353, *3d edit.* There cannot be distress before commitment, in cases of non-payment of the balance.

746. If four towns be in one parish, having each an overseer, and there being one rate for the whole, from the overseer's collecting that of his respective town, and the inhabitants of each being respectively assessed by their respective overseers, the justices may order a *distribution* where there is a want of money in some, and a surplusage in others. *Case of the Borough of Banbury, M.* 2, *Jac.* 2. 1 *Bott*, 309. Where there are four towns in one parish.

747. The justices may order the balance to be paid to the succeeding overseers. *Rex v. Churchwardens of Topsham*, 1 *Bott*, 310. Order to pay balance over.

748. One overseer should reimburse another, where the one has a surplusage, and the other is money out of pocket. *Rex v. Limehouse, E.* 1 *Geo.* 1. 1 *Bott*, 310. 2 *Nolan's Poor Laws*, 358, *3d edit.* (*See pl.* 720, *p.* 202, *ante.*) One overseer should reimburse the other.

749. If the old overseers refuse to deliver over the book of the poor rates to the new overseers, the court of *K. B.* will grant a *mandamus* to compel them; for they are public books, and ought to be delivered over, that all the parishioners may have access to them, and the overseers and churchwardens for the time being *ought to have the custody thereof. Rex v. Clapham, T.* 24, *&c.* 25 *Geo.* 2. 1 *Wilson's Reports*, 305. 1 *Bott*, 301. 2 *Nolan's Poor Laws*, 359, *3d edit.* Refusing to deliver over the account book.

750. The court of *K. B.* will not, upon removal of Removal of an order of sessions

allowing the accounts.

an order of sessions, allowing overseers' accounts, which is good upon the face of it, go on to the merits of those accounts upon affidavit. *Rex v. James and Others. H.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 321. *Bott continued to* 1814, 55.

Overseers cannot charge a salary paid to an overseer.

751. Overseers cannot charge in the accounts for money paid as a salary to one of the overseers. *Rex v. Glyde, H.* 58 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 323, *in Bott continued to* 1814, 55. (*See pl.* 717, *p.* 201, *and* 4 *Bott, p.* 47.)

Any person may appeal against the accounts of overseers.

752. If any person shall have any material objection to the overseers' account, or any part of it, he may appeal to the *next* sessions, giving reasonable notice to the churchwardens and overseers thereof; but if reasonable notice is not given, the court may adjourn the appeal to the next sessions, and the court may order costs to the party in whose favour the appeal shall be determined, as in the cases of settlements by 8 *and* 9 *W.* 3. *c.* 30. 43 *Eliz. c.* 2. *s.* 6. 17 *Geo.* 2. *c.* 38. *s.* 4.

The notice must state the cause and ground of the appeal.

753. A notice of appeal against overseers' accounts, stated the appellants objected to certain specified payments, alleged in the accounts to have been made to persons specified by name in the notice. It was held, that the notice was bad, because it did not state the cause and ground of appeal, as required by the 41 *Geo.* 3. *c.* 38. *s.* 4. *Rex v. Sheard and another, Overseers of Soothill,* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 856.

In corporations not having four justices.

754. In franchises and corporations, which have not *four* justices, the appeal lies to the next county sessions. 41 *Geo.* 3. (*G. B.*) *c.* 23.* *s.* 1, *and* 1 *Geo.* 4. *c.* 36.

The appeal must be to the next general quarter sessions after the allowance.

755. An appeal against overseers' accounts must be to the *next* general quarter sessions, after the allowance of the accounts. The 17 *Geo.* 2. *c.* 38. *s.* 4.

---

* Intituled, "An act for the better collection of rates made for the relief of the poor." Passed 18th April, 1801.

in this respect, is a repeal of the 43 *Eliz. c.* 2. *s.* 6. *Rex v. The Justices of Worcestershire, M.* 57 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 457. *Rex v. Coode, Caldecott's Reports of Settlement Cases,* 507. 1 *Bott,* 281. *Rex v. Mioklefield, Caldecott's,* 507, 1 *Bott,* 284. *Rex v. Atkins,* 4 *Term Reports,* 12. *Rex v. Justices of London,* 15 *East's Reports,* 632.

Accounts must appear to have been allowed.

756. And the accounts must appear to have been allowed by the justices *out of sessions* before the appeal. *Rex v. Bartlett, T.* 7 *Geo.* 2. 2 *Strange's Reports,* 983. 1 *Bott,* 306. 2 *Nolan's Poor Laws,* 366. 365. 3*d edit.*

Appeal against the disallowance.

757. If the churchwardens and overseers are aggrieved by the disallowance or reduction of their account by the justices, they may appeal to the *next* general or quarter sessions (*see pl.* 712, *p.* 199, *ante*). 50 *Geo.* 3. *c.* 49. *s.* 2.

Appeal not taken away.

758. The power of appeal, given by the 43 *Eliz. c.* 2. *and* 17 *Geo.* 2. *c.* 38. (*pl.* 752, *p.* 208.), is not taken away by this act. *Ibid. s.* 3.

Corporations, justices.

759. Magistrates of corporations in cities have the same jurisdiction as two or more justices. *Ibid. s.* 4.

Order of sessions not to be removed.

760. No order or proceeding of any general or quarter sessions of any justices, made under this act, can be removed by *certiorari* to any superior court, but the same (subject to appeal as abovementioned) shall be finally conclusive. *Ibid. s.* 5.

Not to extend to places having local acts.

761. This act does not extend or apply to the accounts of any churchwarden or overseer in any parish or place, where by the provision of any local act they are exempt from accounting, under the 43 *Eliz. c.* 2. *and* 17 *Geo.* 2. *c.* 38. nor to the city of London. *Ibid. s.* 6.

How far the 43 Eliz. is affected by this act.

762. The said acts of 43 *Eliz. c.* 2. *and* 17 *Geo.* 2. *c.* 38, are not affected by this act, except only such provisions as are expressly mentioned in this act. *Ibid. s.* 7.

How section statute applies.

763. This section of the statute (*pl.* 760. above) only applies to appeals brought by churchwardens and overseers against the disallowance of any item in their accounts by the magistrates, being appeals by other

persons as they stood under the 17 *Geo.* 2. *c.* 38. *s.* 4. (*pl.* 752. *p.* 208.) *Rex v. Bird and others, E.* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports*, 522.

Where the accounts are not allowed in time for notice of appeal.

764. Where overseers' accounts were not allowed till the last day that an effectual notice of appeal to the *then next* session would have been given, and it did not appear when the party objecting had notice of such allowance, it was held that a notice of appeal to the *next subsequent* session for which an effectual notice could be given, was good. *Rex v. the Justices of Dorsetshire, H.* 52 *Geo.* 3. 15 *East's Reports*, 200. *Bott, continued to* 1814, 53. 2 *Nolan's Poor Laws*, 364, 3*d edit.*

Inhabitants may be witnesses.

765. Inhabitants not to be incompetent witnesses in certain cases, for or against their parishes, &c. 52 *Geo.* 3. *c.* 170. *s.* 9.

Overseer refusing to deliver up the accounts within 14 days, he may be committed.

766. The 50 *Geo.* 3. *c.* 49. *s.* 1. (*pl.* 710, *p.* 198, *ante*) which requires churchwardens and overseers to submit their accounts to *two* justices at special sessions, to be holden within the 14 days appointed by the 17 *Geo.* 2. *c.* 38. for delivering in the accounts to the succeeding overseers, is not a substitution in lieu of that provision in the 17 *Geo.* 2, but is cumulative; and if the overseer refuse to deliver in such accounts to the succeeding overseer within the 14 days, he may be committed by *two* justices for such refusal. *William Lester's Case,* 16 *East's Reports,* 374. *Bott, continued to* 1814, 57.

Account of parish collector of rate.

767. Where a commitment of a parish collector of the rates to the county gaol, there to remain until he should have made a true account, and until such money as upon the said account should appear to be remaining in his hands, should be paid by him or his sureties, it was held good; although it concluded by directing the gaoler *to keep him until he should be discharged by due course of law. Goff's Case, M.* 55 *Geo.* 3. 3 *Maule and Selwyn's Reports*, 203.

Overseers refusing to pay balance of the accounts after allowance and order.

768. If the overseers, after allowance of their accounts by *two* justices at special sessions, and an order by the justices to pay over the balance to their successors, which order is confirmed on appeal, refuse to pay such balance, the *two justices* may issue

their warrant to levy the same, under the 50 *Geo. 3. c.* 49. (*pl.* 766. *ante*) upon the application of *one* of the succeeding overseers, although the rest of the churchwardens and overseers refuse to concur in such application: therefore, when the justices refused to issue such warrant upon such application, the court granted *a mandamus*. *Rex v. Pascoe and another*, 2 *Maule and Selwyn's Reports*, 343. *Bott, continued to* 1814, 58.

769. It is not necessary, in order to give the justices at sessions jurisdiction to hear an appeal against overseers' accounts, that the accounts should previously have been examined and allowed, pursuant to the 50 *Geo.* 3. *c.* 49. *and* 22 *Geo.* 3. *c.* 83. *Rex v. Justices of Colchester, H.* 2 *and* 3 *Geo.* 4. 5 *Barnewall and Alderson's Reports*, 535.

It is not necessary that the accounts should be allowed before appeal.

Gaol Passes.

770. "It shall be lawful for the justices of the peace for every county, riding, or division in *England*, in their general or quarter sessions assembled, to cause engraved copper-plates, or printed forms of passes, to be provided according to the form B, in the schedule annexed to this act, bearing the king's arms, and sealed either with the county seal or a seal specially provided for that purpose, and issue the same to the several persons within their respective counties, &c. for *the use* of the visiting justices, whenever any prisoner or prisoners discharged from, or about to be discharged from prison, shall apply to be furnished with the same; and the visiting justices shall, if after a due consideration of the circumstances they shall deem it expedient, fill up the blanks in every such pass and certify the same, and make out a route in the proper column for the purpose, of each such prisoner, and for the child, or children, if any, of each such prisoner, specifying the place to which such prisoner and such child or children is or are going, and the time to which the said pass is (except in cases of sickness or unavoidable accident) limited, in order that such prisoner may

The justices in session to provide passes for the use of visiting justices of gaols.

receive such allowances as are authorized by this act, *not exceeding* 1½*d. per mile for such prisoner, and* 1*d. per mile for each child,* which from being in a state of nurture, or without other protection, may have been confined in prison with such prisoner." *5 Geo.* 4. *c.* 85. *s.* 23.

Overseers to pay allowances mentioned in the pass.

771. "Upon the production of such pass to any overseer of the poor of any place through which such discharged prisoner shall proceed, *according to the route specified in the pass,* he shall out of the money in his hands, applicable to the relief of the poor, pay such discharged prisoner an allowance not exceeding the rate *per* mile specified in such pass as aforesaid, for the number of miles to the next city, town, or place, to which he or she may be going, and he shall indorse on such pass the money so paid, and take a receipt for the same from the discharged prisoner, signed with his or her hand or mark." *Ibid. s.* 24.

The money to be repaid by treasurer of the county.

772. "The sums so advanced by any overseer, shall upon production and delivery of such receipt to the treasurer of the county, riding, or division, in which the parish or place of such overseer [*is situate*]* be repaid by the said treasurer for the use of the fund for the relief of the poor of such parish or place by the said treasurer." *Ibid. s.* 25.

Pass to be delivered up to the overseer of last place mentioned therein.

773. "Every such discharged prisoner shall at the last place of receiving any such allowance, deliver up such pass to the overseer advancing the allowance, who shall transmit the same to the keeper of the prison from which such prisoner shall have been discharged, with the words '*pass of a discharged prisoner,*' indorsed thereon, or on the cover open at the sides." *Ibid. s.* 26.

Exemption.

774. Nothing in this act shall extend to *Bethlehem Hospital, Bridewell,* the *King's Bench,* the *Fleet, nor Marshalsea* prisons, nor the penitentiaries at *Milbank,* nor *Gloucester. Ibid. s.* 27.

---

* "*Is situate,*" is omitted in the act.

Certificate, Route, and Description of discharged Prisoners under the 5 Geo. 4. c. 85. s. 23.

775. Whereas by the act of parliament of the 5 *Geo.* 4. *c.* 83, prisoners discharged from prisons may, upon application to the visiting justices of such prison, become entitled to certain allowances from the overseers of the poor of any place through which they may pass on their way to the places of their settlement, under authority of a route and certificate of two such visiting magistrates; and whereas

Form.

Discharged prisoners may have a pass.

corresponding in appearance, and the account he (*or she*) gives of himself (*or herself*) to the description after mentioned, has come before us, two of the visiting justices of the county gaol (*or house of correction*) at and is deemed by us to be a fit object to receive the regulated allowance under the said act; this is to certify the same, and to require the overseers of the poor of the places mentioned in the route to issue to the said discharged prisoner the allowance specified in the said route, as required by the said act of parliament; provided, that the discharged prisoner produces the said route himself (*or herself*), and that the description corresponds with his (*or her*) appearance, and agrees with the account he (*or she*) gives of himself (*or herself*), and the number of children he (*or she*) has with him (*or her*). Given under our hands and seals this day of 182

Certificate.

} Seals and Signatures } of the Magistrates.

This pass to be in force for days from the date hereof.

N. B. To prevent frauds, all parish officers are not to give the allowances granted by the aforesaid act under the authority of any other form of pass than this, which is prescribed in the schedule of the act of parliament aforesaid.

Route for from in the county of
to in the county of

A. Names of places through which the discharged prisoner is to travel.	B. Rate per mile for the discharged prisoner and children, if any.	C. Distance of place where relief is advanced, to that where it is to be continued.	D. Sum paid by each overseer.	E. Signature of each overseer paying the discharged prisoner.	Remarks.

Total amount paid £

Directions for filling up these Passes.

Directions for the magistrate.

776. The magistrate is to fill up the description, and to insert in the column marked A the names of the places through which the discharged prisoner is to travel; and in the column marked B (*in words*) the allowance per mile which he (*or she*) is to receive, and also to unite the number of children *in words* in the proper column in the third page, and where there are no children to strike out that part of the form: in case of any mistake, the magistrate should make the necessary alteration with a pen, and write his name opposite thereto.

Directions to the overseers.

777. The overseer of the poor will insert in the column marked C, the distance of the place to which he advances the allowance; in that marked D, the sum he gives the discharged prisoner; and in that marked E, will sign his own name, specifying the parish for which he acts: he is also to take before a magistrate any person that presents a paper in which

there are alterations other than with the pen as above directed.

Description of the discharged Prisoner.

Prisoner's name.	His (*or her*) age.	His (*or her*) height.		Colour of his (*or her*)			His (*or her*) dress.	Number of children.			
		Feet.	Inches.	Hair.	Eyes.	Complexion.		Boys.	Ages.	Girls.	Ages.

Memorandum for the Guidance of the Overseers of the Poor, Treasurers of Counties, and Keepers of Prisons.

Duty of overseers.

778. Each overseer is to take a receipt from the discharged prisoner, signed with his (*or her*) name or mark, and he is to be reimbursed the money paid by the treasurer of the county in which he serves the office of overseer, on giving him a receipt for the same together with the discharged prisoner's receipt; the overseer who makes the last advance, to carry the discharged prisoner to his place of residence, is to send the certificate, route, and pass to the keeper of the prison from which the prisoner was discharged, and the said keeper shall make and sign a declaration in the form herein next after annexed, which said declaration shall be attested by one visiting justice of the said prison.

Declaration of the Keeper of the Prison.

779. I keeper of the county gaol (*or keeper of the house of correction or prison*) at in the county of do declare that this pass hath come to me without cover (*or in a cover open at the sides*), and without any paper or thing inclosed therein, and without any writing other than the matter of such pass, and than the superscription upon the same, or upon the cover thereof.

Signed. A. B.

780. I one of the visiting justices of the said prison do attest, that after due examination I do believe the aforesaid declaration to be true. Dated this day of 182

C. D.

A SCALE, or TABLE, proposed as a Guide to Overseers to the Price of Bread

After taking the amount of the aggregate earnings of all the Labourers in the Family, and the Sum to be supplied by the parish, according to the Number in the Family.

Price of Qrtn. Loaf.	Number in Family. 1.		Ditto. 2.		Ditto. 3.		Ditto. 4.		Ditto. 5.	
d.	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*
6	1	9	3	6	5	0	6	4	7	6
6½	1	10	3	8	5	3	6	8	7	11
7	1	11	3	10	5	6	7	0	8	4
7½	2	0	4	0	5	9	7	4	8	9
8	2	1	4	2	6	0	7	8	9	2
8½	2	2	4	4	6	3	8	0	9	7
9	2	3	4	6	6	6	8	4	10	0
9½	2	4	4	8	6	9	8	8	10	5
10	2	5	4	10	7	0	9	0	10	10
10½	2	6	5	0	7	3	9	4	11	3
11	2	7	5	2	7	6	9	8	11	8
11½	2	8	5	4	7	9	10	0	12	1
12	2	9	5	6	8	0	10	4	12	6
12½	2	10	5	8	8	3	10	8	12	11
13	2	11	5	10	8	6	11	0	13	4
13½	3	0	6	0	8	9	11	4	13	9
14	3	1	6	2	9	0	11	8	14	2
14½	3	2	6	4	9	3	12	0	14	7
15	3	3	6	6	9	6	12	4	15	0
15½	3	4	6	8	9	9	12	8	15	5
16	3	5	6	10	10	0	13	0	15	10
16½	3	6	7	0	10	3	13	4	16	3
17	3	7	7	2	10	6	13	8	16	8
17½	3	8	7	4	10	9	14	0	17	1
18	3	9	7	6	11	0	14	4	17	6
18½	3	10	7	8	11	3	14	8	17	11
19	3	11	7	10	11	6	15	0	18	4
19½	4	0	8	0	11	9	15	4	18	9
20	4	1	8	2	12	0	15	8	19	2
20½	4	2	8	4	12	3	16	0	19	7
21	4	3	8	6	12	6	16	4	20	0
21½	4	4	8	8	12	9	16	8	20	5
22	4	5	8	10	13	0	17	0	20	10
22½	4	6	9	0	13	3	17	4	21	3
23	4	7	9	2	13	6	17	8	21	8
23½	4	8	9	4	13	9	18	0	22	1
24	4	9	9	6	14	0	18	4	22	6

* This scale is applicable where an assize is set, and the assize quartern loaf; but it may be easily adapted to where bread is sold by weight.

seers of the Poor, in relieving the Poor according and Number of Family.

the family by the week, the deficiency may be sup- the following calculations.

Ditto. 6.		Ditto. 7.		Ditto. 8.		Ditto. 9.		Ditto. 10.	
s.	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*
9	0	10	6	12	0	13	6	15	0
9	6	11	1	12	8	14	3	15	10
10	0	11	8	13	4	15	0	16	8
10	6	12	3	14	0	15	9	17	6
11	0	12	10	14	8	16	6	18	4
11	6	13	5	15	4	17	3	19	2
12	0	14	0	16	0	18	0	20	0
12	6	14	7	16	8	18	9	20	10
13	0	15	2	17	4	19	6	21	8
13	6	15	9	18	0	20	3	22	6
14	0	16	4	18	8	21	0	23	4
14	6	16	11	19	4	21	9	24	2
15	0	17	6	20	0	22	6	25	0
15	6	18	1	20	8	23	3	25	10
16	0	18	8	21	4	24	0	26	8
16	6	19	3	22	0	24	9	27	6
17	0	19	10	22	8	25	6	28	4
17	6	20	5	23	4	26	3	29	2
18	0	21	0	24	0	27	0	30	0
18	6	21	7	24	8	27	9	30	10
19	0	22	2	25	4	28	6	31	8
19	6	22	9	26	0	29	3	32	6
20	0	23	4	26	8	30	0	33	4
20	6	23	11	27	4	30	9	34	2
21	0	24	6	28	0	31	6	35	0
21	6	25	1	28	8	32	3	35	10
22	0	25	8	29	4	33	0	36	8
22	6	26	3	30	0	33	9	37	6
23	0	26	10	30	8	34	6	38	4
23	6	27	5	31	4	35	3	39	2
24	0	28	0	32	0	36	0	40	0
24	6	28	7	32	8	36	9	40	10
25	0	29	2	33	4	37	6	41	8
25	6	29	9	34	0	38	3	42	6
26	0	30	4	34	8	39	0	43	4
26	6	30	11	35	4	39	9	44	2
27	0	31	6	36	0	40	6	45	0

the calculations are made according to the price to places where there is no assize, and the bread

SETTLEMENT OF THE POOR.

Regulations with regard to poor established by the statute of 22 Geo. 3. c. 83.

781. The statute of the 22 *Geo.* 3. *c.* 83 (*p.* 177. *ante*,) establishes many new regulations with regard to the maintenance of the poor; but it is *optional* with the inhabitants of a parish, or other place, to adopt those regulations, or continue in the present mode.

Poor to go for relief where they were born.

782. The poor were formerly to repair, in order to be maintained, to the places where they were *born.* 12 *Ric.* 2. *c.* 7.

Where they last dwelt.

783. To the place where they last *dwelled*, or were *best known*, or were *born.* 12 *H.* 7. *c.* 2.

Or last lived for three years, or were born.

784. To where they *were born, or made last their abode, by the space of three years.* 19 *H.* 7. *c.* 12.

Most conversant for three years.

785. This was explained to be, where they had been *most conversant* by the space of *three* years. 1 *Ed.* 6. *c.* 3.

To be sent to the place of their dwelling.

786. They were to be sent to the place of their *dwelling*, if they had any, if not, to the place where they last dwelt by the space of one year; if it could not be known, then to the place of their birth. 1 *J.* 1. *c.* 7.

787. And this last settlement continued till 13 *and* 14 *Car.* 2. 12. (1660—1, 1661—2.)

Poor people going from one parish to another.

788. The poor were not restrained by the previous act of parliament from going from one parish to another, and settling themselves in those parishes where there was *the best stock, the largest commons or wastes to build cottages, and the most woods for them to burn and destroy*, and when they had consumed it, then to another parish, and at last they became rogues and vagabonds, to the great discouragement of parishes to provide stocks, where it was liable to be devoured by strangers; until it was enacted that it should be lawful, upon the complaint made by the churchwardens or overseers of the poor of any parish, to any justice of the peace *within forty days after any poor person coming to settle in any tenement under the yearly value of* 10*l.*,

for any two justices of the division where any such person, that is likely to be chargeable to the parish shall come to inhabit, to remove such person to the parish where he was last legally settled, *unless he shall give sufficient security for the discharge of the parish to be allowed by the said justices.* 13 *and* 14 *Car.* 2. *c.* 12.

789. A married woman is incapable of acquiring a settlement by any act of her *own during coverture.* Married women.

790. An infant *under the age of seven years,* cannot be removed from the parish in which his property lies. *Rex v. Hasfield, E.* 13 *Geo.* 2. 2 *Bott,* 462. Infants under seven years of age.

791. Persons *attaint* cannot, while *attaint,* acquire any settlement. *Rex v. St. Mary Cardigan,* 6 *Term Reports,* 119. 2 *Nolan's Poor Laws,* 151. 152. Persons attaint.

792. A deserter, while he is such, cannot acquire a settlement. *Rex v. Norton juxta Kempsey,* 9 *East,* 206. Deserters.

793. Soldiers while quartered in any place cannot acquire a settlement there by hiring and service. *Rex v. Beaulieu, M.* 55 *Geo.* 3. 3 *Maule and Selwyn's Reports,* 229. 1 *Nolan's Poor Laws,* 340. Soldiers while quartered cannot acquire a settlement by hiring and service.

794. But by renting a tenement they may gain a settlement. *Rex v. Brighton, H.* 58 *Geo.* 3. 1 *Barnewall and Alderson's K. B. Reports,* 270. But they may by renting.

795. All the enactments and provision in any acts of parliament since the beginning of the reign of king *George* the first (1714), by which any alteration is made in respect of gaining or not gaining a settlement within any particular *district, parish, township, or hamlet,* are repealed; and all persons shall be deemed to have acquired, and who shall acquire a settlement in any such district, &c. by any ways and means, he, she, or they would, or might have done, or would or might do, in case any such acts had not been made, and notwithstanding the same or any of them are or was in force and operation. 54 *Geo.* 3. *c.* 170. *s.* 1. Statutes since the 1st Geo. 1. (1714) as to settlements of the poor repealed.

796. No person shall acquire a settlement in any district, &c. by being born of a mother actually con- No person to acquire a settlement by being born of

a mother confined in prison, or house licensed for the reception of pregnant women.

fined in any prison or house licensed for the reception of pregnant women under the 13 *Geo.* 3 *. in which such prison or house shall be situated. *Ibid. s.* 2.

Child born in house of industry.

797. A child born of a poor person in any house of industry, or any house for the reception and care of the poor of any *district,* &c. which shall be locally situated in any *district,* &c. contributing to the expenses of maintaining the poor therein, or in any other district, &c. not contributing to such expense, such child shall, as far as regards the settlement, be deemed and taken to be born in the *district,* &c. by whom the mother of such child was received and maintained in such house. *Ibid. s.* 3.

Prisoner on civil process.

798. No person shall gain any settlement by residence within any district, &c. while a prisoner within any such district, &c. on any civil process, or for contempt. *Ibid. s.* 4.

799. No gatekeeper or toll-house keeper of a turnpike road or navigation, or a person renting the tolls and residing in a toll-house, shall *thereby* gain a settlement. *Ibid. s.* 5.

No person maintained by a charitable institution to gain a settlement thereby.

800. No person shall gain a settlement in any *district,* &c. by residence in a house *or other dwelling place,* provided for the residence of such person by *any charitable institution,* while he or she shall be supported and maintained at the expense of such charitable institution *as an object of charity. Ibid. s.* 6.

Houses purchased or hired under the 59 Geo. 3. c. 12. as to settlement to be taken as part of the parish.

801. And every house and building, purchased or hired under the authority of the 59 *Geo.* 3. *c.* 12 †. (*s.* 8. 9. 10. 14. 15. 16. 17 *and* 18.) in all questions relative to the settlement of persons born or lodged therein, shall be deemed and taken *to be part of the parish,* on behalf of which the same *shall be pur-*

---

* For the better regulation of lying-in hospitals and other places appropriated for the charitable reception of pregnant women.

† Intituled "An act to amend the laws for the relief of the poor". (31 March, 1819).

chased or hired, and by which *the same shall be used as a poorhouse or workhouse.* 59 *Geo.* 3. *c.* 12. *s.* 11.

Of illegitimate Children.

Place of birth the place of settlement.

802. The place of birth is generally to be considered the place of settlement, and that whether of legitimate or illegitimate persons. *Rex v. Heaton and another, C. T. R.* 653.

Bastards settled where born.

803. An illegitimate child is settled where born, and can have no other settlement until he has gained one of himself, which settlement is of necessity the place of birth; for being *nullus filii,* he cannot be provided for unless the reputed father is found. *Whitechapel v. Stepney, Carthew's Reports,* 433. 2 *Bott,* 12. 1 *Nolan's Poor Laws* (3*d edit.*). *Connor v. Milton, and Cripplegate v. St. Saviour's.*

If born in a place by collusion, no settlement gained.

804. But if by the *privity* and *collusion* of officers of the parish to which a woman belongs, she comes into another parish and is there delivered of an illegitimate child, the child gains no settlement by birth. *Sett. and Rem.* 66. *Cases in the King's Bench concerning Poor.*

A woman going into another parish to be delivered.

805. If a woman with child of a bastard, being settled in one parish, is persuaded to go into another parish to be delivered, *this is a fraud,* and will make the parish to which the mother belonged chargeable. *Master v. Child.* 3 *Salkeld's Reports,* 66. 2 *Bott,* 2. *Tewkesbury v. Twining.* 2 *Bott,* 1.

If she goes into a parish accidentally, and is persuaded to go into another to be delivered.

806. But if such woman goes accidentally into a parish, and is persuaded by some of the parishioners to go into another parish and is there delivered, the parish into which she accidentally went will not be chargeable. *Ibid.*

Bastards of lodgers.

807. Illegitimate children of lodgers are settled where born. *Rex v. Spitalfields, E.* 12 *W.* 1 *Lord Raymond's Reports,* 567. 2 *Bott,* 2. 1 *Nolan's Poor Laws,* 288, 4*th edit.*

Children born under an order of removal.

808. Such children born under an order of removal, and before the mother can be sent to her settlement, being prevented by unavoidable accident,

are not settled *where born*, but settled with the mother. *Rex v. Ickleford, M.* 10 *Ann.* 1. *Sessions Cases*, 33. *Sett. and Rem. Cases in K. B. concerning Poor.*

Born under a suspended order of removal.

809. An unmarried woman delivered of a bastard child during the suspension of an order of removal, the mother's settlement at the time of her delivery is the settlement of the child. 35 *Geo.* 3. *c.* 101. *s.* 6.

If born while removing.

810. If a woman is delivered of a bastard child on her way to her place of settlement, while in the custody of the officers removing her, by order of removal, the child is settled *in the place* to which the mother was *going*, and not in the place of its birth. *Jane Gray's Case, E.* 10 *Ann. Sett. and Rem.* 66. *Cases in K. B. concerning Poor.* 2 *Bott*, 3. 1 *Nolan's Poor Laws*, 290, 3*d edit.*

Born after removal reversed before appeal.

811. A bastard born after removal, which is reversed, and before appeal, shall be settled in the parish to which the mother on appeal is returned back. *Much Waltham v. Peram, M.* 8 *W.* 2 *Salkeld's Reports*, 290, 3*d edit.*

A pregnant woman removed, and delivered pending the order.

812. A pregnant woman removed by an order of removal from A to B, and pending the order before the next quarter sessions, she is delivered of a bastard child; if the order is reversed on appeal, the child shall be sent back to B as the place of his birth. *Westbury v. Coston, H.* 2 *Ann.* 1. *Salkeld's Reports*, 532. 2 *Bott*, 3. *Bareham v. Waltham*, 2 *Bott*, 2.

If born in the house of correction.

813. An illegitimate child, born in the house of correction, shall be sent to the mother's settlement. *Suckley v. Whitborn.* 2 *Bulstrode's Reports*, 358. 2 *Bott*, 2. 54 *Geo.* 3. *c.* 170. *s.* 2.

If born in a county gaol.

814. And so if born in a county gaol. *Elsing and the County Gaol of Hereford.* 1 *Sessions Cases*, 94. 1 *Nolan's Poor Laws*, 290. 54 *Geo.* 3. *c.* 170. *s.* 2.

If born in a house of industry.

815. And likewise, if born in a house of industry, of any incorporated district. 20 *Geo.* 3. *c.* 36.

Bastards born under the act for establishing friendly societies.

816. Every bastard child, born in any parish or place the mother of which was at the time of the

birth a member of any society for the management and relief of friendly societies, and residing in such parish, &c. under the act "*For the Encouragement and Relief of Friendly Societies,*" has the same settlement which the mother had at the time of the birth of the child. 33 *Geo.* 3. *c.* 54.

Born of lunatic, &c.

817. A bastard born of a lunatic, insane person, or dangerous idiot, in a county asylum, does not gain a settlement in the parish where the asylum is situated; but the settlement of such child is in the parish where the mother was *last* legally settled. 51 *Geo.* 3. *c.* 79. *s.* 7.

Born in a lying-in hospital.

818. And so is a bastard born in a lying-in hospital, *if such hospital is duly licensed.* 13 *Geo.* 3. *c.* 82. 54 *Geo.* 3. *c.* 170. *s.* 2. *post.*

A room in a workhouse, licensed under the 13 Geo. 3. c. 82. not an hospital within the meaning of the act.

819. A room in a parish workhouse, licensed under the 13 *Geo.* 3. *c.* 82. and used for the reception and delivery of pregnant women within the parish, whether settled there or not, the expenses of which room is defrayed in common with the general expenses of the workhouse, *is not an hospital or place within the provision of that act. Rex v. Inhabitants of Manchester. E.* 2 *Geo.* 4. 4 *Barnewall and Alderson's K. B. Reports,* 504.

A bastard born in an extraparochial place.

820. An illegitimate child, born in *an extraparochial* place, does not follow the settlement of its mother. *Rex v. Inhabitants of St. Nicholas, Leicester, E.* 5 *Geo.* 4. 2 *Barnewall and Alderson's Reports,* 889.

Bastards born under Certificates.

Born under certificates.

821. A bastard born of a certificated person is settled in the place of its birth. *New Windsor v. White Waltham, T.* 5 *Geo.* 1, 1 *Strange's Reports,* 186. 2 *Bott,* 577. 2 *Nolan's Poor Laws,* 123, 3*d. edit.*

Born of a certificated woman.

822. A bastard born of a certificated woman is settled where born, and not in the parish granting the certificate; such child not coming within the meaning of *family* in the certificate. *Hilton v. Lid-*

linch, T. 16 *Geo.* 2. 2 *Sessions Cases,* 170. 2 *Strange's Reports,* 1168. *Burrows' Settlement Cases,* 187. 2 *Bott,* 5. 1 *Elsing v. County Gaol of Hereford.*

Where the certificate engages to provide for a woman and a child with which she is pregnant.

823. Where the terms of the certificate are to provide for a woman and *her child,* she being pregnant of a bastard, the child when born is settled in the certificating parish. *Rex v. Wyke, T.* 19 *and* 20 *Geo.* 2. *Burrows' Sessions Cases,* 264. 2 *Bott,* 6. 1 *Nolan's Poor Laws,* 289, 3*rd edit.*

An unmarried woman under certificate including the child with which she was big.

824. An unmarried woman going to reside in a parish under a *certificate,* which included the child with which she was pregnant, and stating her to be *an unmarried woman,* the child when born is settled in the mother's parish. *Rex v. Ipsley, M.* 10 *Geo.* 3. *Burrows' Sessions Cases,* 650. 2 *Bott,* 6. 2 *Nolan's Poor Laws,* 123, 3*rd edit.*

The certificate must state the woman to be single.

825. It must be expressly stated in the certificate that the woman *is a single woman. Rex v. Mathon, T.* 37 *Geo.* 3. 7 *Term Reports by Durnford and East,* 362. 2 *Bott,* 10. 1 *Nolan's Poor Laws,* 288, 289, 3*rd edit.*

How far removable from their Mother.

A bastard cannot be taken from the mother until seven years old.

826. Whether the mother and child have the same or different settlements, the child *cannot* be removed from the mother until the age of *seven* years, for until that age the mother is entitled to the custody of the child for *nurture;* and it is inseparable from her, *except when the mother voluntarily deserts it, in which case the cause of nurture ceases;* and this applies to legitimate as well as illegitimate children. *Cripplegate v. St. Saviour's, H.* 8 *Anne. Foley's Poor Laws,* 265. 2 *Bott,* 13. 1 *Nolan's Poor Laws,* 287, 3*rd edit. Skaffreth v. Walford, M.* 3 *Geo.* 2. 2 *Sessions Cases,* 90. 2 *Bott,* 14.

The parish to maintain a child with its mother in another parish.

827. The parish to which a child belongs, which continues with its mother for *nurture* in another parish, shall maintain the child in such other parish. *Rex v. Inhabitants of Hemlington,* 17 *Geo.* 3. 3 *Douglas's Reports* (n. 2.) *edit.* 1818. *Caldecott's Reports of Settlement Cases,* 6. 2 *Bott,* 7. 2 *Nolan's Poor Laws,*

304, *3rd edit. Simpson and others v. Tonson and others, M.* 19 *Geo.* 3, 1779. *Douglas's Reports,* 7. (*See p.* 46, *pl.* 86, *title* "*Bastard,*" *ante.*)

828. The place of birth is *primâ facie* the place of settlement; but *evidence of birth is only* evidence that the mother was locally resident in the parish at the time, is the *slightest* of all possible evidence of a settlement, and therefore the place of birth is the weakest evidence of settlement. *Rex v. Wakefield,* 1 *Smith's Reports,* 514. 5 *East's K.B. Reports,* 335. The place of the birth of legitimate children is primâ facie the place of settlement.

829. A child sent to A, it being the place of its birth, neither father nor mother having a settlement; it was decided by the justices at sessions, on appeal, that birth gained no settlement, but only in the case of bastardy; by the court (chief justice Holt absent) birth makes a good settlement, and the *onus* lies on the parish where the child was born, to find another; therefore the order made by the justices on appeal was quashed. *Spitalfields and St. Andrew's Holborn, Fortescue's Reports,* 307. Birth is a good settlement, and the onus lies with the parish where the party was born to find another settlement.

830. The father's settlement is the settlement of his children where it can be found, otherwise the place of birth is *primâ facie* the place of settlement. *Cripplegate v. St. Saviour's, H.* 8 *Anne. Foley's Poor Laws,* 265. 2 *Bott,* 13. 1 *Nolan's Poor Laws,* 287, *3rd edit.* The father's settlement the settlement of his children, if it can be found.

831. If a child is dropped in a parish, they may remove him to the place of his birth, or where his father's settlement was; and the settlement by birth is only until they find the father's settlement; and if they never can find the father's settlement, the child is absolutely settled upon them. *Clavely and Burton, Stafford Assizes,* 5 *C.* 2 *Bulstrode's Reports,* 351. 2 *Bott,* 11. A child dropped in a parish may be removed to the place of birth.

832. The place of birth, therefore, of a legitimate child is the place of its settlement, until another is found out. Place of birth of a legitimate child.

833. The legitimate child of a vagrant parent gains a settlement by birth, if the settlement of the parent is not known; but if known, the child must follow the parent's settlement. *Whitechapel v. Stepney, M.* 9. *W. Carthew's Reports,* 433. 2 *Bott,* 12. If the parent of a legitimate child is a vagrant.

1 *Nolan's Poor Laws*, 285. 288, 3*d edit*. *See Coxwell v. Skillingford, H.* 4 *Anne*. *Foster's Crown Law*, 313. *Foley's Poor Laws*, 269. 2 *Bott*, 18. 1 *Nolan's Poor Laws*, 274, 3*d edit*.

Where the parents are both dead.

834. Where a travelling woman having an infant child at the breast, apprehended for felony and executed, the child is to be sent to the place of *its birth*, if known; and if not known, then to the *place* where the mother was apprehended. *Dalton, Justice, edit.* 1746, *c.* 73. *p.* 168.

The first known place of abode.

835. The first known place of abode of a child is the place of settlement; and that parish must provide for it until they find out another. *Comberlach's Reports*, 364. 372.

Settlement of deserted children.

836. No child, nurse, or servant, received or employed in any hospital, for the maintenance and education of exposed and deserted young children, shall gain any settlement in the parish where the hospital is situated. 13 *Geo.* 2. *c.* 29. *s.* 7.

Settlement of foundlings.

837. The settlement of *foundlings* is purely the same as that of others; that is, if legitimate, they follow their fathers' settlement, if known; if unknown, then their mothers' settlement; if neither is known, or if they are illegitimate, they are settled where born; *if that is not known*, then they shall be maintained and provided for in the place where they shall happen to be, until a settlement *can be found*. (*See* 13 *Geo.* 3. *c.* 29. 54 *Geo.* 3. *c.* 170. *s.* 2, 3. *ante*, *p.* 221, 222.)

Register is evidence of birth.

838. The register is evidence of the fact of birth, and the identity of the party may be proved in the ordinary course.

As to the time of the birth of a child.

839. Parents may prove the *time* of birth, and after their death, their declaration, made in their lifetime, is evidence of the fact; but the register is only evidence of the christening, *and not when the child was born*. *Goodright v. Moss*, *E.* 17 *Geo.* 3. 2 *Cowper's Reports*, 591.

Hearsay declaration.

840. Hearsay declaration of the father as to the place of his son's birth, is not evidence. *Rex v. Erith*, *T.* 47 *Geo.* 3. 8 *East*. 539. *Bott by Const.* 84. 1 *Nolan's Poor Laws*, 293—444, 3*d edit*.

Evidence relating to Legitimacy.

841. A marriage duly solemnized between the parents is the first proof requisite to substantiate the legitimacy of the party. Proof of the marriage of parents.

842. The registry and proof of identity will be sufficient; and parents may be examined as to facts connected with the question of legitimacy; and their declarations upon that subject, or their treating a child as such, will, after their death, be evidence of the fact of legitimacy. Registry and identity sufficient.

843. Parents may be examined to the fact of the legitimacy of their children, and the treatment of a child by a parent in his family as illegitimate, would be good evidence, and also the declarations of parents in their lifetime. *Goodright v. Moss, E.* 17 *Geo.* 3. 2 *Cowper's Reports*, 591. *Rex v. Bramley, T.* 35 *Geo.* 3. 6 *Term Reports*, 330. 2 *Bott*, 749. Parents may be examined as to the legitimacy of their children.

By Parentage derived from the Father.

844. A legitimate child born, or a child dropped in a parish where the parent is vagrant, *gains no settlement by being dropped;* but the settlement is where the father was last legally settled, and this whether the child be an idiot or not. *Corwell v. Skillingford, H.* 4 *Anne. Foster's Crown Law*, 313. *Foley's Poor Laws*, 269. 2 *Bott*, 18. 1 *Nolan's Poor Laws*, 274, 3*d edit. Hard's Case*, 2 *Bott*, 17. 1 *Nolan*, 277. The settlement of a legitimate child is with its parents.

845. The precise time when a person may have gained a settlement in his own right is at the age of *seven* years, (*except parish apprentices, which is at the age of nine years*), and *forty* days residence; for by the 5 *Eliz. c.* 5. a child of *seven* years may be bound apprentice to a shipwright, fisherman, owner of a ship, or other person using the trade of the seas; and as soon as he shall have resided and lodged *forty* days under the indenture, he will have thereby gained a settlement. At what age a person may gain a settlement.

846. The father settled in one place, and a child born in another, the child follows the father's settle- Father settled in one place and child born in another.

marriage. *Wangford v. Brandon, M. W. W. Carthew's Reports,* 449. 2 *Salkeld's Reports,* 482. *Burrows' Settlement Cases,* 3. 2 *Bott,* 23.

Where after the death of the father the mother marries another husband.

860. After the death of the father, the mother marries a second husband who is settled in another parish, the children above *seven* years old cannot be removed; those under that age may be removed, *but only for nurture;* and they are to be kept at the charge of the parish in which their father, whilst living, was settled—to which parish they may be sent, after *seven* years old, as the place of their lawful settlements. *Cunmer v. Milton, T.* 2 *Anne.* 2 *Salkeld's Reports,* 528, *S.* 3 *Salkeld's Reports,* 259. 2 *Bott,* 12. 1 *Nolan's Poor Laws,* 274, 3*d edit. St. Giles in the Fields v. St. Clement's, T.* 6 *and* 7 *Geo.* 2. *Burrows' Settlement Cases,* 2. 2 *Bott,* 24. 1 *Nolan,* 276, 3*d edit.*

Of the Emancipation of Children.

Son emancipated by his father leaving him, and marriage of the son.

861. A son is emancipated from the father by the father separating from the son (by moving to another parish), and the son remaining behind and marrying; and the settlement of the son will be in the parish where he and his father *last lived together,* while the father gained a settlement there. *Eastwoodhay v. Westwoodhay, T.* 7 *Geo.* 1. 1 *Strange's Reports,* 438. 2 *Bott,* 31. 1 *Nolan's Poor Laws,* 282, 3*d edit.*

A son leaving his father and going into another county and marrying.

862. A son, at nineteen years of age, leaving his father and going into another parish and marrying, *is emancipated,* and his children will derive no settlement from their grandfather. *St. Michael Coslany in Norwich v. St. Matthew's in Ipswich, E.* 2 *Geo.* 2. 2 *Sessions Cases,* 129. 2 *Strange's Reports,* 831. 2 *Bott,* 32. 1 *Nolan's Poor Laws,* 283, 3*d edit.*

Marriage and living separate from the father's family.

863. Marriage and separation from the father's family *is an emancipation. Bugden v. Ampthill, H.* 21 *Geo.* 2. *Burrows' Settlement Cases,* 270. 2 *Bott,* 33. 1 *Nolan's Poor Laws,* 278. 282, 3*d edit.*

Marriage and separation.

864. A son of a certificated person, maintaining

and living separately from the father, *is emancipated. Rex v. Heath, E.* 34 *Geo.* 3. 5 *Term Reports,* 583. 2 *Bott,* 614. 1 *Nolan's Poor Laws,* 282, 3*d edit. Rex v. Mortlake, E.* 43 *Geo.* 3. 2 *Bott,* 619. 1 *Nolan,* 278, 3*d edit.*

865. Marriage by a son is of itself an emancipation, although he continues to reside with his father and his family. *Rex v. Everton, T.* 41 *Geo.* 3. 1 *East's K. B. Reports,* 526. 2 *Bott,* 52. 1 *Nolan's Poor Laws,* 278, 3*d edit.* Marriage is no separation.

866. If there is no marriage, the son's carrying on the business for himself will *not* constitute *an emancipation,* if he lives with his father's widow as part of her family, although the son went away sometimes for a few weeks at harvest. *Rex v. Sowerby, E.* 42 *Geo.* 3. 2 *East's K. B. Reports,* 276. 2 *Bott,* 617. 1 *Nolan's Poor Laws,* 278, 3*d edit.* If no marriage, and the son carrying on the business for himself.

867. A son enlisting for a soldier and being abroad for four years, and then returning to his father, *is emancipated. Rex v. Walpole, St. Peter's, E.* 9 *Geo.* 3. *Burrows' Settlement Cases,* 638. 1 *Sir W. Blackstone's Reports,* 669. 2 *Bott,* 35. 1 *Nolan's Poor Laws,* 288, 3*d edit.* Son enlisting for a soldier, and returning after four years.

868. A son residing with his father, drawn for a militia-man at eighteen years of age, and serving five years as a balloted man, remaining separated from his father's family after twenty-one, he *was emancipated,* although originally the separation was not voluntary on his part. *Rex v. Hardwick, M.* 2 *Geo.* 4. 5 *Barnewall and Alderson's K. B. Reports,* 176. A son drawn as a militia-man, serving five years, and returning to his father's family.

869. Enlisting as a soldier *is an emancipation. Rex v. Stanwix, T.* 34 *Geo.* 3. 5 *Term Reports,* 670. 2 *Bott,* 45. 1 *Nolan's Poor Laws,* 283, 3*d edit.* Enlisting as a soldier.

870. The mere being in the militia and serving in it, *is not* of itself *an emancipation. Rex v. Woburn, H.* 40 *Geo.* 3. 8 *Term Reports,* 479. 2 *Bott,* 50. 1 *Nolan's Poor Laws,* 281. 284. 441, 3*d edit.* Being a private in the militia.

871. A son, nineteen years of age, treating his father's house as his home, and so considering it, *is* A son treating his father's house as his home, and

going about the country to work.

not emancipated, though he goes about the country working for himself. *Rex v. Halifax, H.* 15 *Geo.* 3. *Burrows' Settlement Cases,* 806. 2 *Bott,* 36. 1 *Nolan's Poor Laws,* 280, 3*d edit.*

A child residing with a friend, and occasionally visiting his father's house as his home.

872. A child residing with a friend by the direction of the father, and occasionally treating his father's house as his home, *is not an emancipation. Rex v. Tottington Lower End, E.* 23 *Geo.* 3. 284. 2 *Bott,* 37. 1 *Nolan's Poor Laws,* 275, 3*d edit. Rex v. Offchurch, H.* 29 *Geo.* 3. 2 *Term Reports,* 114. 2 *Bott,* 40. 1 *Nolan,* 279, 3*d edit.*

A child bound apprentice by a void indenture.

873. A child bound an apprentice by a *void* indenture, and gaining *no settlement* thereby, *is not emancipated. Rex v. Edgeworth, T.* 29 *Geo.* 3. 3 *Term Reports,* 353. 2 *Bott,* 42. 1 *Nolan's Poor Laws,* 280, 3*d edit.*

A child cannot be emancipated until he gains a settlement in his own right.

874. A child cannot be emancipated *until he has gained a settlement in his own right,* or has contracted a relation incompatible with that of a component part of his father's family; and a son of the age of nineteen (his father having run away) hiring himself for four years, and not gaining a settlement thereby, *is not emancipated. Rex v. Witton cum Twarnbrookes, T.* 29 *Geo.* 3. 2 *Term Reports,* 355. 2 *Bott,* 43. 1 *Nolan's Poor Laws,* 277. 279, 3*d edit.*

Gaining a settlement in his own right in a parish previously settled in.

875. A person gaining a settlement in his own right, in the parish in which he was previously settled by parentage, *is an emancipation. Rex v. Bleasby, H.* 60 *Geo.* 3. *and* 1 *Geo.* 4. 3 *Barnewall and Alderson's K. B. Reports,* 377.

876. A son at sixteen hiring himself for a year, and serving the year, he *is not* considered *emancipated* from the time of hiring; for emancipation does not commence until the expiration of the service. *Rex v. New Forest, H.* 34 *Geo.* 3. 5 *Term Reports,* 478. 2 *Bott,* 182. 1 *Nolan's Poor Laws,* 303, 3*d edit.*

Going from the father's house to service for eight weeks, and then returning.

877. A person, twenty-one years of age, removing from her father's house and going into service *for eight weeks,* and then returns to and continues with her father, *is an emancipation. Rex v. Roach, E.* 35 *Geo.* 3. 6 *Term Reports,* 247. 2 *Bott,* 46. 1 *Nolan's Poor Laws,* 278. 282. 284, 3*d edit.*

878. "If a child under twenty-one years of age leaves his father's house, and is thereby severed from his father's family, and returns to his father during a state of pupillage, during which time policy requires that the child should be under the protection of his father, he must be considered as incorporated with his father's family, *unless he has gained a distinct settlement of his own,* or has become the head of a family himself; but if a child, after a state of pupillage, severs himself from his father's family, he cannot afterwards be incorporated with it." *Ibid.* What will constitute emancipation.

879. The general rule to be extracted from the cases is; if a child is separated from the parents, and without marrying, or obtaining any settlement for himself, returns to them again during the age of pupillage, he is to all intents a part of his father's family, and his settlement will *vary* with that of his father; but if when that time arrives when, in estimation of law, the child wants no further protection from the father, the child removes from the father's family, *he is not,* for the purpose of a derivative settlement, *to be deemed* part of that family. *Ibid. see pl.* 884. *p.* 236. General rule of emancipation.

880. A widower having a daughter, placed her, at eleven years of age, with an uncle, by whom she was wholly maintained after that time, and with whom she continued to reside after *she came of age,* doing service for him, but without any contract of hiring to give her a settlement of her own; the father, in the mean time, having gone out to service, *she was emancipated* on coming of age. *Rex v. Cowhoneyborne, T.* 48 *Geo.* 3. 10 *East's Term Reports,* 88. *Bott, Const's edition,* 115. 1 *Nolan's Poor Laws,* 284. A girl placed at the age of eleven years with an uncle, and wholly maintained by him after twenty-one years.

881. Where a pauper, at the time of hiring himself, had a daughter eighteen years of age, who, from the age of four years, had lived with her grandfather, and had been maintained by him until his death, and afterwards by her grandmother, which continued until she attained the age of twenty-one years; the grandfather having by will directed the grandmother to educate and maintain her, out of a A girl living with her grandfather, and maintained by him until his death, and afterwards with the grandmother, and maintained by her out of the grandfather's funds left by will.

fund given to the grandmother for life, and after her decease to the daughter; she was not emancipated, and consequently was not within the statute of 3 *and* 4 *W. and M.*; a person *not having a child at the time of the hiring. Rex v. Uckfield, T.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports*, 214.

An apprentice to a certificated person, returning to his father at the age of nineteen.

882. A son bound apprentice to a certificated person for four years, and after serving his time, returning, at the age of nineteen, to his father, *is not emancipated. Rex v. Hardwicke, M.* 50 *Geo.* 3. 11 *East's K. B. Reports*, 578. 1 *Nolan's Poor Laws*, 281. 283. 3*d edition. See Romsey v. St. Michael's, Southampton, p.* 263. *pl.* 58. (Copy) 8*th Part.*

The son of a certificated person bound apprentice, serving his time, and afterwards hiring himself in the certified parish.

883. A son of a certificated person (who was not named in the certificate), upon the death of his father being bound an apprentice in the certifying parish, and serving under the indenture for some years, and afterwards serving (with his master's consent) the remainder of his time (till twenty-one, with a person) in the certified parish, where his mother and family resided under the certificate, and afterwards hiring himself to the same person for a year, and serving *that and three successive years in the certified parish,* gained a settlement *by hiring and service. Rex v. Morley, H.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports*, 417. *Bott, Const's edition*, 29.

A minor cannot be emancipated unless he marries &c.

884. A minor cannot be emancipated unless he *marries,* and so becomes the *head of a family,* or contracts some other relation, so as *wholly* and *permanently* to exclude the *parental control. Rex v. Inhabitants of Wilmington, H.* 2 *and* 3 *Geo.* 4. 5 *Barnewall and Alderson's Reports*, 525. *see pl.* 879. *p.* 235.

A minor enlisting into the marines, discharged, and returning to the father's family.

885. A minor enlisting into the marines, and after his discharge returning to his father's family, and before he had attained twenty-one years, *is not emancipated. Rex v. Inhabitants of Rotherfield Greys, Oxon, H.* 3 *and* 4 *Geo.* 4. 1 *Barnewall and Alderson's Reports*, 345.

As to Settlement by Marriage.

886. A wife follows her husband's settlement, although she never lived with him; and a widow not having acquired a settlement after the death of her husband, must be sent to the last legal settlement of her husband. *Rex v. Pincehorton, M.* 3 *Geo.* 1. *St. Giles's, Reading, v. Eversley, Blackwater, (p.* 230. *pl.* 847. *ante.)*

Wife follows the husband's settlement.

And does so the widow after his death.

887. A wife can gain no settlement *separate* and *distinct* from her husband *during their joint* lives. *Aythorp Rooding v. White Rooding, M.* 30 *Geo.* 2. 2 *Bott,* 75. 1 *Nolan's Poor Laws,* 258, *3rd edit.*

Wife cannot gain a settlement distinct from her husband.

888. If a woman marries a man who has no known settlement, she does not lose her settlement which she had before marriage; but she must be sent to the place of her settlement before her marriage. *St. Giles's v. St. Margaret's, E.* 2 *Geo.* 1. 1 *Sessions Cases,* 97. 2 *Bott,* 77. 1 *Nolan's Poor Laws,* 258, *3rd edit. Rex v. Chiddingstone, H.* 12 *Geo.* 1. 2 *Strange's Reports,* 683. 1 *Nolan,* 258, *3rd edit.*

If a woman marries a man without a settlement.

889. If a woman marries a vagrant, who dies, and whose settlement is unknown, the marriage shall not put her in a worse condition than she was before, and she shall not lose her former settlement. *Uphottery v. Dunkswell, M.* 1 *Geo.* 1. *Sett. and Rem.* 89. *Cases in K. B. concerning Poor.* 1 *Sessions Cases,* 80. 2 *Bott,* 76. *Nolan's Poor Laws,* 259, *3rd edit.*

Woman marries a vagrant who dies without having a known settlement.

890. A woman marrying a Scotsman who had gained no settlement, must be sent to the place of her settlement which she had before her marriage. *Dunsfield v. Wilsborough Green, M.* 12 *Anne. Foley's Poor Laws,* 249. *Sett. and Rem.* 31. *Cases in K. B. concerning Poor.* 2 *Bott,* 76. 1 *Nolan's Poor Laws,* 258, 259, *3rd edit.*

Husband living, not having a known settlement in England.

891. A woman settled at St. Giles's marries an Irishman; she is not in a worse condition than she was before, and the settlement she had before her

An Irishman's wife.

marriage continued. *St. Giles's v. St. Margaret's, M. 3 Geo. 1. Sett. and Rem. 97. Cases in K. B. concerning Poor. 1 Nolan's Poor Laws, 258, 3rd edit.*

A wife may be sent to her maiden settlement if her husband is not known, and he has run away.

892. A married woman may be removed to her maiden settlement if her husband *has run away*, and the place of his last legal settlement *is not known. Rex v. Westerham, H. 12 Geo. 1. Foley's Poor Laws, 252. 2 Bott, 77. 1 Nolan's Poor Laws, 259, 3rd edit.*

A woman marries a vagrant, the settlement is suspended.

893. The settlement of a woman who marries a vagrant is suspended during coverture, and that as the husband cannot be sent to wife's settlement, so neither can the wife herself, because the husband and wife being considered in law as one person, cannot be parted. *Stretford v. Norton, H. 12 Geo. 2. Andrews's Reports, 307. 2 Sessions Cases, 185. 19 Viner's Abridgement, 376. Burrows' Settlement Laws, 122. 1 Nolan's Poor Laws, 259, 3rd edit.*

Suspended settlement.

894. A *vagrant* married a woman who had a settlement in A, and afterwards had four children by her in B; the children were not settled in B, but in A the wife's settlement before her marriage. *Shadwell v. St. John's Wapping, T. 9 Geo. 1.*

Husband living but absent.

895. A woman gained a settlement in A by hiring and service, and afterwards married an *Irishman* who had no settlement in *England;* the husband went abroad and remained some years, but was living; the question was, whether her settlement in A before marriage ceased, or was suspended during her coverture, and she should be considered as casual poor, or should be sent to A the place of her settlement before marriage. *By Ryder, C. J. 1st, It is certain A was once her settlement, and that is not disputed. 2nd, That settlement continues till she gains a new one. 3rd, That she has never gained a new one.* To the second point, *a settlement is a permanent thing; it lasts during life or till a new one is acquired; neither can any person discharge his own settlement sooner, or by any other means.* The question is not, *whether she gained any new settlement by marriage, but whether her old settlement was discontinued by her marriage with a person who*

had none? It is absurd to say, she shall lose her own without getting another. The wife's settlement therefore remains, it having never been determined, but only suspended during the time that she continued under the power and protection of her husband, and was maintained and supported by him. *St. John's Wapping, and St. Botolph Bishopsgate, H.* 28 *Geo.* 2. *Burrows' Settlement Cases,* 367. 2 *Bott,* 78. 1 *Nolan's Poor Laws,* 259, 3*rd edit.*

Removing a wife, it is sufficient in the first instance to prove her maiden settlement.

896. On removing a wife, it is sufficient, in the first instance, to prove her maiden settlement. *Rex v. Ryton, H.* 18 *Geo.* 3. *Caldecott's Reports of Settlement Cases.* 2 *Bott,* 83. 1 *Nolan's Poor Laws,* 260, 3*rd edit. Rex v. Edisore, otherwise Hedsor, M.* 24 *Geo.* 3. *Caldecott's,* 371. 2 *Bott,* 86. 1 *Nolan's,* 260. *Rex v. Harberton, H.* 57 *Geo.* 3. 13 *East's Reports,* 311. *Bott continued,* 36. 1 *Nolan,* 260, 3*rd edit. Rex v. Earlbourne, T.* 43 *Geo.* 3. 4 *East,* 103. 2 *Nolan,* 150.

Removing a woman as a wife.

897. Removing a woman as a wife to a parish, and the order remaining unappealed against, is conclusive of the fact of marriage *upon the parish* to which she was removed; but other parishes may dispute the validity of the marriage. *Rex v. Binegar, E.* 46 *Geo.* 3. 7 *East,* 377. 1 *Nolan's Poor Laws,* 270, 3*rd edit.*

A previous marriage subsisting.

898. A previous marriage subsisting at the time of a second marriage, renders the second void from the beginning. *Rex v. Twining,* 2 *Barnewall and Alderson's Reports,* 386.

Not necessary to prove the publication of the banns.

899. It is not necessary to prove the publication of the banns, nor to produce a copy of the register; but it is sufficient for one of the party who was present at the ceremony to prove the fact of marriage and the identity of the parties. *St. Devereux v. Much Deerchurch, E.* 2 *Geo.* 3. *Burrows' Settlement Cases,* 506. 1 *Blackstone's Reports,* 367. 2 *Bott,* 66. 1 *Nolan's Poor Laws,* 299. 203.

Residing under a false name.

900. A man, whose name was AB, residing for several years in a parish under the name of CD, and having been *known only* by that name, was married by banns under the name CD; the marriage is valid,

and his wife and children are entitled to the husband's settlement. *Rex v. Billingshurst, M. 55 Geo. 3.* 3 *Maule and Selwyn's K. B. Reports,* 250. 1 *Nolan's Poor Laws,* 297.

A marriage by license, not in the man's real name.

901. A marriage by license, not in the man's real name, but in the name which he had assumed because he had deserted, he being known by that name only in the place where he lodged and was married, and where he had resided sixteen weeks; the marriage was valid. *Rex v. Burton-upon-Trent, H. 55 Geo. 3.* 3 *Maule and Selwyn's K. B. Reports,* 537. 1 *Nolan's Poor Laws,* 297; *and see* 2 *East's Pleas of the Crown,* 967, 968.

Reputation proof of marriage.

902. In all cases (but of prosecution for bigamy, and actions for *crim. con.*,) reputation is good proof of marriage in the absence of direct proof. *Morris v. Miller, E. 7 Geo. 3.* 4 *Burrows' Reports,* 2057. 1 *Blackstone's Reports,* 632. 2 *Bott,* 69.

Thirty years cohabitation is a sufficient proof of marriage.

903. Thirty years' cohabitation as man and wife sufficient proof to found an order of removal upon. *Rex v. Stockland, T. 2 Geo. 3. Burrows' Settlement Cases,* 508. 2 *Bott,* 67. 1 *Nolan's Poor Laws,* 299.

A mother may be called to prove she was never married.

904. A mother may be examined to prove that she was never married to the man she cohabited with, and who was reputed to be her husband, though by such evidence she bastardize her children; *but in all cases of this sort, such testimony is open to great suspicion. Rex v. Bramley, T. 35 Geo. 3.* 6 *Term Reports,* 330. 2 *Bott,* 749. 1 *Nolan's Poor Laws,* 299, 300.

Fraudulent settlement.

905. It is generally understood, that no settlement is good which is brought by *fraud,* but if the marriage take effect, the settlement is good.

Conspiracy to gain a settlement.

906. If there is a *conspiracy to let lands* at 10*l.* a year to a poor man, in order to gain him a settlement, or to make *a certificated man* a parish officer, or to send a woman big of a bastard child into another parish, there to be delivered, so by that means to charge the parish with the child; the parish officers *are indictable for the conspiracy. Rex v. Edwards, M.* 11 *Geo.* 1. 8 *Modern Reports,* 321.

By Hiring and Service.

907. Poor persons coming into a parish are removable within forty days, unless they give security to indemnify the parish. 13 *and* 14 *Car.* 2. *c.* 12. (*see p.* 220. *pl.* 788, *ante.*) Poor removable within forty days.

908. The forty days to be accounted from the time of delivery of notice in writing, of the *house of his abode, and the number of his family,* to one of the officers of the parish into which he shall come. 1 *J.* 2. *c.* 17. *s.* 3. How the forty days are to be accounted.

909. The parish officers should cause the notice to be publicly read after divine service in the church or chapel of the parish on the next Sunday, and the forty days' continuance intended by the said acts to make a settlement should be accounted from such publication. 30 *W. and M. c.* 11. *s.* 3. Notice to be read in the church.

910. Persons hired into any parish must be unmarried and without children at the time of hiring, in order to acquire a settlement under such hiring. 3 *W. and M. c.* 11. *s.* 7. Persons hired into a parish.

911. Where a pauper served under a yearly contract in the parish of *A.*, and was again hired in the same parish by the same master for a less period than a year, (there being no interruption of the service) and during the latter period he removed with his master into the parish of *B.*, and served him there; it was held that the pauper did not acquire a settlement in that parish, inasmuch as no part of his service there was under a yearly hiring. *Rex v. Inhabitants of Apsthorpe, E.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 892. Service in two parishes.

912. If an unmarried person, not having a child or children, shall be lawfully *hired* for one year, such service shall be adjudged and deemed a good settlement, though no such notice be delivered and published. Unmarried persons not having any children.

913. No settlement to be gained, unless the person shall continue in the *same service* one *whole* year. 8 *and* 9 *W. c.* 30. *s.* 6. One year's service necessary to gain a settlement.

Poor persons not removable unless actually chargeable.

914. No poor person to be removed from the parish where he shall be inhabiting, unless he has become actually chargeable. 35 *Geo.* 3. *c.* 101. *s.* 1.

Certificated persons.

915. No certificated person shall gain a legal settlement, unless he shall really and *bonâ fide* take a lease of tenement of the value of 10*l.*, or execute some *annual* office, *being legally* placed therein. 9 *and* 10 *W. c.* 11.

Apprentice or hired servant of a certificated person.

916. Nor shall any apprentice or hired servant of a certificated person gain a settlement by hiring or service. 12 *Anne, st.* 1. *c.* 18. *s.* 2.

917. No hired servant to any person residing in a parish under the authority of this act, (*that is, certificated for the encouragement of friendly societies*), shall gain a settlement therein by reason of such hiring and service; but all such servants shall have their settlements therein, as if they had not been so hired. 33 *Geo.* 3. *c.* 54. *s.* 24.

Who may, or may not, acquire such Settlement.

Married man hiring himself, subject to approbation, and his wife dies.

918. A married man hiring himself, subject to approbation, and his wife dies before the agreement is complete, and the agreement is afterwards completed, a settlement is gained by hiring and service. *Rex v. Bank Newton, E.* 31 *Geo.* 2. *Burrows's Settlement Cases,* 455. 2 *Bott,* 179. 1 *Nolan's Poor Laws,* 339.

Marriage before entering on service.

919. The time to be attended to, is the time when the contract is made; marrying before the hiring and entering into the service, will not defeat the settlement if there is no fraud. *Rex v. Allendale, T.* 29 *Geo.* 3. 3 *Term Reports,* 382. 2 *Bott,* 180. 1 *Nolan's Poor Laws,* 338. *Rex v. Stannington.* 3 *Term Reports,* 385. 2 *Bott,* 181, *n.*

Marriage between the contract and the beginning of the service.

920. A marriage during the interval between the contract of hiring and the beginning of the service, for the purpose of fraudulently evading the statute, defeats the settlement. *Rex v. Allendale, T.* 29 *Geo.* 3.

Marriage does not defeat the settlement.

921. But a marriage during the service does not

defeat the settlement, nor is the contract dissolved by the marriage. *Farringdon v. Witty, E.* 1 *Anne.* 2 *Salkeld's Reports,* 527. 2 *Bott,* 295. *Rex v. Clent, M.* 1 *Geo.* 1. 2 *Bott,* 296. *Rex v. Sutton,* 2 *Bott,* 296. *Rex v. Hamburg, T.* 26 *and* 27 *Geo.* 2. *Burrows's Settlement Cases,* 322. 2 *Bott,* 297. 1 *Nolan's Poor Laws,* 338.

Continued hiring.

922. A settlement cannot be gained by a continued hiring, if at the second hiring the servant was married. *Rex v. St. Giles's, T.* 13 *Geo.* 3. *Caldecott's Reports,* 54. 2 *Bott,* 297. 1 *Nolan's Poor Laws,* 457.

The contract is not dissolved by marriage.

923. Marriage does not dissolve the contract, if it happens during the year in which a man has been hired as a *single man. Rex v. Hedson, T.* 18 *Geo.* 3. *Caldecott's Reports,* 51. 2 *Bott,* 287. 1 *Nolan's Poor Laws,* 468.

A deserter gains no settlement.

924. A deserter, *while he is such,* can gain no settlement by hiring and service. *Rex v. Norton, H.* 48 *Geo.* 3. 9 *East,* 206. *Bott, by Const.,* 133. 1 *Nolan's Poor Laws,* 340.

Nor can a private soldier.

925. Nor can a private soldier, *though with the consent of his commanding officer. Rex v. Beaulieu, M.* 55 *Geo.* 3. 3 *Maule and Selwyn's Reports,* 229. 1 *Nolan's Poor Laws,* 340. (*See p.* 221. *pl.* 792. *ante.*)

An emancipated child hired as a yearly servant.

926. A child who is emancipated may be hired as a yearly servant by the father, and will gain a settlement thereby. *Chesham v. Missenden, T.* 13 *Anne. Foley's Poor Laws,* 142. 2 *Bott,* 178. 1 *Nolan's Poor Laws,* 341. *Rex v. Chetsey, T.* 27 *Geo.* 3. 2 *Term Reports,* 37. 1 *Nolan,* 342.

Person hiring need not have a settlement in the parish.

927. It is not necessary that the person hiring the servant should have a settlement in the parish. *Chesham v. Missenden, T.* 13 *Anne.*

Pauper hired out by parish officers.

928. A parish pauper hired out by the parish officers, cannot, by such hiring and *service under it,* gain a settlement. *Rex v. Rickinghall Inferior, E.* 46 *Geo.* 3. 7 *East,* 373. 1 *Nolan's Poor Laws,* 341—350.

Compulsory hiring.

929. A compulsory hiring and service under it,

gains no settlement. *Rex v. Stowmarket, H.* 48 *Geo.* 3. 9 *East*, 211. *Bott, continued to* 1814, 135. 1 *Nolan's Poor Laws*, 304—312.

Overseers giving clothes to a poor boy who hires himself out.

930. A poor boy of 16 *years of age* hires himself, and the overseers of his parish afterwards assist him with clothes, gains a settlement. *Rex v. Inhabitants of Dunton, E.* 52 *Geo.* 3. 15 *East*, 352. *Bott, continued to* 1814, 140. 1 *Nolan's Poor Laws*, 351.

Living with a relation, and working at his trade for his board, &c.

931. A boy living several years with his uncle, and working at his trade for his board, lodging, and clothes, but without any *contract*, does not gain a settlement. *Rex v. St. Mary, Guildford, E.* 25 *Geo.* 3. 2 *Bott*, 187. *Caldecott's Reports*, 521. 1 *Nolan's Poor Laws*, 349.

Where there is no contract.

932. Where there is no contract, no hiring will be presumed, and no settlement can be gained; but where there is a contract, it will be presumed to have been regular till the contrary appears. *Rex v. Weyhill, H.* 33 *Geo.* 2. *Burrows's Settlement Cases*, 491. 2 *Bott*, 185. 1 *Nolan's Poor Laws*, 345, 346.

Presumptive hiring.

933. A person living with another for two years, and having been seen in menial service there, a yearly hiring will be presumed. *Rex v. Holy Trinity in Wareham, H.* 22 *Geo.* 3. *Caldecott's Reports*, 141. 2 *Bott*, 352. 1 *Nolan's Poor Laws*, 345.

Presumptive hiring.

934. A person seen and known to be in the service of another as a servant *in husbandry* for a year, a *yearly hiring* will be presumed. *Rex v. Lyth, T.* 33 *Geo.* 3. 5 *Term Reports*, 327. 2 *Bott*, 355. 1 *Nolan's Poor Laws*, 345. 348. 362.

Remaining in service after the end of the year.

935. A person remaining in service after the end of the first year, a *yearly hiring* may be presumed, commencing with the second year. *Rex v. Hales, T.* 34 *Geo.* 3. 5 *Term Reports*, 668. 2 *Bott*, 357. 1 *Nolan's Poor Laws*, 345. 364.

Presumptive hiring.

936. A hiring for a year will be presumed from a service of four years. *Rex v. Inhabitants of Pendleton, E.* 52 *Geo.* 3. 15 *East*, 449. *Bott, continued to* 1814, 38. 1 *Nolan's Poor Laws*, 346.

937. A person only hired for less than a year, and he serves for three years, a contract for a year may be implied. *Rex v. Long Whatton, M.* 34 *Geo.* 3. 5 *Term Reports*, 447. 2 *Bott*, 356. 1 *Nolan's Poor Laws*, 345, 364. Hiring for less than a year, and serving three years.

What is a Hiring for a Year.

938. The yearly hiring must be by one entire contract. *Dunsford v. Ridgwick, M.* 9 *Anne.* 2 *Salkeld's Reports*, 535. 2 *Bott*, 250. 1 *Nolan's Poor Laws*, 356. *Horsham v. Shipley, M.* 12 *Anne.* *Foley's Poor Laws*, 134. 2 *Bott*, 235. 1 *Nolan* 356. The yearly hiring must be by one entire contract.

939. Where there is a general hiring and no time mentioned, a hiring for a year is implied. *Rex v. Wincanton, H.* 24 *Geo.* 2. *Burrows's Settlement Cases*, 299. 2 *Bott*, 195. 1 *Nolan's Poor Laws*, 367. Where there is a general hiring.

940. Telling one to go into another's place, and the other having been a *yearly servant*, is a hiring for a year by implication. *Rex v. Berwick St. John, E.* 33 *Geo.* 2. *Burrows's Settlement Cases*, 502. 2 *Bott*, 197. 1 *Nolan's Poor Laws*, 366. One person going into the place of another.

941. Where no mention is made of wages or of time, and the service is for a year, a hiring is presumed. Bidding one "*to go into the yard and look after the horses.*" *Rex v. Stockbridge, M.* 14 *Geo.* 3. *Burrows's Settlement Cases*, 759. 2 *Bott*, 199. 1 *Nolan's Poor Laws*, 363. Where there is no mention of wages or time.

942. If a man retains a servant generally without expressing any time, the law shall construe it to be for one year. 1 *Inst.* 426. 1 *Nolan's Poor Laws*, 362. (*n.* 4. *see pl.* 13.) Retaining a servant generally.

943. A person hiring himself without any stipulation as to time or wages, but only for his meat, drink, washing, and lodging, and serving three years, a hiring for a year will be implied. *Rex v. Bath Easton, M.* 16 *Geo.* 3. *Burrows's Settlement Cases*, 823. 2 *Bott*, 201. 1 *Nolan's Poor Laws*, 342, 363. Hiring without any stipulation except for meat, &c.

944. A person agrees to go and live with one for

Agreeing to go and live with a person for a particular purpose.

a particular purpose, and is to receive for meat, drink, and clothes, but no time is mentioned, and she remains two years and a half, going away in the middle of the year, a yearly hiring is presumed. *Rex v. Worfield, H.* 34 *Geo.* 3. 5 *Term Reports*, 506. 2 *Bott*, 208. 1 *Nolan's Poor Laws*, 342, 363, 364.

Hiring for fifty-two weeks.

945. A hiring for fifty-two weeks is not a hiring for a year. *Rex v. Astley, M.* 1815, *MS. cited.* 1 *Nolan's Poor Laws*, 357.

Indefinite hiring.

946. An indefinite hiring, without any circumstance to show that a less time was meant, shall be considered a hiring for a year. *Rex v. Seaton and Beer, E.* 24 *Geo.* 3. 2 *Bott*, 202. *Caldecott's Reports*, 440. 1 *Nolan's Poor Laws*, 367.

An emancipated child serving her father for a year.

947. An emancipated person going to her father for a year "*to do the offices of a servant*," it is a good hiring; although it is agreed that she may earn what she can by her own labour. *It is sufficient if it appears that the servant agreed to serve, and the master to pay for that service for a year. Rex v. Chertsey, T.* 27 *Geo.* 3. 2 *Term Reports*, 37. 2 *Bott*, 204. 1 *Nolan's Poor Laws*, 342.

Living with a relation not under any hiring.

948. If a person goes to live with a relation, "*as such, and not under any hiring*," and after three years hires himself to another for one year and serves it, and afterwards goes to live with his relation *as before, was no hiring for a year. Rex v. Stokesly, T.* 36 *Geo.* 3. 6 *Term Reports*, 757. 2 *Bott*, 190. 1 *Nolan's Poor Laws*, 347.

Assistant waiter at an inn.

949. An assistant waiter at an inn, without an agreement with the master, gains no settlement by hiring and service. *Rex v. St. Matthew's, Ipswich, M.* 30 *Geo.* 3. 3 *Term Reports*, 449. 2 *Bott*, 188. 1 *Nolan's Poor Laws*, 347.

Agreeing to work and to be paid at a certain rate for what he should do.

950. A person agreeing to live with his stepfather, to work with him, and to be paid at a certain rate for what he should do, is not a general hiring for a year. *Rex v. St. Peter's in Dorchester, M.* 4 *Geo.* 3. *Burrows's Settlement Cases*, 513. 1 *Blackstone's Reports*, 443. 2 *Bott*, 197. 1 *Nolan's Poor Laws*, 373.

951. Hiring from Whitsuntide to Whitsuntide gains

a settlement, though there are less than 365 days in that period. *Rex v. Newstead, T.* 10 *Geo.* 3. *Burrows's Settlement Cases,* 669. 2 *Bott,* 237. 1 *Nolan's Poor Laws,* 359. Hiring from Whitsuntide to Whitsuntide.

952. So although the service be ended before the following Whitsunday, but having continued for more than 365 days. *Rex v. Ulverstone, E.* 38 *Geo.* 3. 7 *Term Reports,* 564. 2 *Bott,* 248. 1 *Nolan's Poor Laws,* 359. 385. If the service ends before the following Whitsuntide.

953. Hiring two days after Michaelmas till the following Michaelmas, gains no settlement. *Combe v. Westwoodhay, H.* 5 *Geo.* 1. 1 *Strange's Reports,* 143. 2 *Bott,* 243. 1 *Nolan's Poor Laws,* 357. (*See p.* 250. *pl.* 973.) Hiring two days after Michaelmas.

954. Hiring at a statute fair, if for less than a year, gains no settlement, though such a hiring be *customary. Rex v. Harwood, T.* 20 *Geo.* 3. *Douglass's Reports, edit.* 1813. *Caldecott's Reports,* 100. 1 *Nolan's Poor Laws,* 357. *Rex v. Standon Massey, H.* 49 *Geo.* 3. 10 *East,* 576. *Bott, continued to* 1814, 138. 1 *Nolan,* 359. Hiring at a statute fair for less than a year.

955. Hiring the day after Michaelmas-day to the Michaelmas-day following, gains a settlement. *Rex v. Navestock, M.* 13 *Geo.* 3. *Burrows's Settlement Cases,* 719. 2 *Bott,* 238. *Nolan's Poor Laws,* 359. Hiring the day after Michaelmas-day, till the Michaelmas following.

956. A hiring on October 11th till Michaelmas following, is a hiring for a year. *Rex v. Syderstone cum Bermer. Caldecott's Reports,* 19. 2 *Bott,* 239. 1 *Nolan's Poor Laws,* 358.

957. Hiring on the afternoon of the 11th is the same as on the night of the 10th at twelve o'clock. *Rex v. Syderstone cum Bermer. Caldecott's Reports,* 19. 2 *Bott,* 239. 1 *Nolan's Poor Laws,* 358. Hiring on the afternoon of the 11th, is the same hiring as the 10th.

958. If one be hired the day after Martinmas-day till the Martinmas-day following, *till* is inclusive, and it is a hiring for a year. *Rex v. Skiplam, M.* 27 *Geo.* 3. 1 *Term Reports,* 490. 2 *Bott,* 242. 1 *Nolan's Poor Laws,* 358. Hiring the day after Martinmas.

959. Hiring three days after Michaelmas till the Michaelmas following, will gain no settlement, although there is a service for 365 days (being leap year): *Rex v. Ackley, E.* 29 *Geo.* 3. 3 *Term Reports,* 250. 2 *Bott,* 242. 1 *Nolan's Poor Laws,* 357. Hiring three days after Michaelmas till the Michaelmas following.

Yearly Wages—Month's Warning—and going on Liking.

Hiring for a year, with liberty to part at a month's notice.

960. Hiring for a year at 4*l.* wages, payable quarterly, with liberty to part on a month's notice at the end of any quarter, is a yearly hiring. *Rex v. Atherton, H.* 16 *Geo.* 2. *Burrows's Settlement Cases,* 203. 2 *Bott,* 249. 1 *Nolan's Poor Laws,* 362.

The like, with liberty to part at a month's wages or warning.

961. A hiring at 5*l.* per year wages, with liberty to part at a month's wages or warning, is a yearly hiring. *Rex v. New Windsor, H.* 8 *Geo.* 2. *Burrows's Settlement Cases,* 19. 2 *Bott,* 248. 1 *Nolan's Poor Laws,* 362. 365, 366.

Conditional hiring as to liking.

962. Hiring conditional as to liking, if the service continue, is a good hiring for a year. *Rex v. Lidney, T.* 6 *and* 7 *Geo.* 2. *Burrows's Settlement Cases,* 1. 2 *Bott,* 247. 1 *Nolan's Poor Laws,* 361. *Rex v. St. Ebbs, H.* 22 *Geo.* 2. *Burrows,* 289. 2 *Bott,* 249. 1 *Nolan,* 361.

Retrospective Hirings.

Hiring for a year, part of which was past.

993. Hiring for a year, part of which was then past, gains no settlement. *Rex v. Ilam, M.* 25 *Geo.* 2. *Burrows's Settlement Cases,* 304. 2 *Bott,* 245. 1 *Nolan's Poor Laws,* 361.

Hiring for a Year under particular Conditions as to Service.

Hiring for a year to work by the great, will gain a settlement.

964. Hiring for a year, to spin yarn at so much per stone, will gain a settlement. *Rex v. King's Norton, T.* 13 *and* 14 *Geo.* 2. 2 *Strange's Reports,* 1139. 2 *Sessions Cases,* 146. *Burrows's Settlement Cases,* 152. 2 *Bott,* 209. 1 *Nolan's Poor Laws,* 378.

The like to make screws at per gross.

965. Hiring "*for a year*" to make screws, at so much a gross, will gain a settlement. *Rex v. Bir-*

mingham, H. 20 *Geo.* 3. *Douglass's Reports*, 333. *Caldecott's Reports*, 77. 2 *Bott*, 217. 1 *Nolan's Poor Laws*, 342. 376. 378. 404, 405.

966. But a hiring from *Michaelmas* to *Michaelmas*, to make a certain quantity of bricks, will *not* gain a settlement, unless the last brick was finished *exactly* at the year's *end*. *Rex v. Woodhurst, H.* 58 *Geo.* 3. 1 *Barnewall and Alderson's K. B. Reports*, 325. Hiring to make a certain quantity of bricks, will not gain a settlement.

967. A pauper was *clubbed** with a bricklayer for three years, at so much a week the first year, so much a week for the second year, and so much a week for the third year, to be taught the trade of a bricklayer, but to board, lodge, and find his own washing. The pauper served two years and upwards, and then left his master by consent. The pauper *was to do any work his master set him about, considered to be a good yearly hiring*. *Rex v. Coltishall, E.* 33 *Geo.* 3. 5 *Term Reports*, 193. 2 *Bott*, 228. 1 *Nolan's Poor Laws*, 480, 3*d edition*. A pauper clubbed for three years, and to do any work he was set about.

968. The like if there was a stipulation in the contract, if he was prevented from working by illness, bad weather, or want of employment, to deduct a proportion of wages. *Rex v. Martham, H.* 41 *Geo.* 3. 1 *East*, 239. 2 *Bott*, 228. 1 *Nolan's Poor Laws*, 378. The like when there is a stipulation to deduct proportion of wages.

969. A pauper, after hiring himself for a year to a brickmaker, entered into another agreement (on unstamped paper, without seals) to serve his master for three years, to learn to make bricks, was a new hiring in the relation of master and servant. *Rex v. Inhabitants of Shinfield, M.* 52 *Geo.* 3. 14 *East*, 541. *Bott, continued to* 1814, 152. 1 *Nolan's Poor Laws*, 352. 416. 448. Hiring for a year, and afterwards enters into an agreement for three years to learn to make bricks.

970. A verbal agreement by the father, that his son should work with another as a frame-work knitter for two years, and to have what he earned, and to allow his master 2*s*. a week for instruction, and the use of a frame and standing, is a contract of Verbal agreement by the father, that his son should work for two years.

---

* *Clubbed means serving another for the purpose of learning a trade.*

hiring and service, and not of apprenticeship. *Rex v. Burbach, E.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports,* 370. *Bott, continued to* 1814, 155. 1 *Nolan's Poor Laws,* 487, 3*d edition.*

Parol contract, master to receive money for teaching pauper.

971. Parol agreement that the master *would teach* the pauper to make stockings during the year, paying his master two guineas, the pauper to have his earnings, paying his master for the use of the frame, &c. The pauper served a year and half. No settlement gained by hiring and service, there being no contract to serve the master. *Rex v. Bilborough, M.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 115. 1 *Nolan's Poor Laws,* 353.

Parol agreement.

972. The father of a pauper, aged fourteen years, agreed by parol to give a shoemaker a guinea for teaching his trade to the pauper for twelve months. The son served the twelve months under the agreement. At the end of that period, the father agreed that his son should work for the shoemaker for twelve months, making shoes at three-pence a pair the first six months, and four-pence a pair the last six months; under this latter agreement the pauper served six months *only.* It was held, that this latter service could not be connected with the service of the former year, so as to give a settlement, inasmuch as the first agreement created the relation of teacher and scholar, and not of that of master and servant, and the whole year's service required to confer a settlement, must be under a contract or contracts creating the relation of master and servant. *Rex v. Inhabitants of St. Mary, in the Borough of Kidwelly, E.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 750.

Limited or colourable Hirings, for the Purpose of avoiding Settlements.

Hiring three days after Michaelmas till Michaelmas following.

973. Hiring three days after *Michaelmas* till the *Michaelmas* following, gains no settlement. *Rex v. Mursley, E.* 27 *Geo.* 3, 1 *Term Reports,* 694. 2 *Bott,* 246. 1 *Nolan's Poor Laws,* 357, 358. *See p.* 247. *pl.* 953.

974. Hiring for eleven months gains no settlements, although for the purpose of avoiding gaining a settlement. *Rex v. Haughton, T.* 4 *Geo.* 1. *Foley's Poor Laws,* 137. 1 *Strange's Reports,* 83. 10 *Modern Reports,* 392. 2 *Bott,* 252. 1 *Nolan's Poor Laws,* 356. Hiring for eleven months.

975. But if the hiring is for eleven months, with an assent to give a month's service beyond the eleven months, gains a settlement. *Rex v. Milwich, T.* 30 *and* 31 *Geo.* 2. 2 *Burrows's Settlement Cases,* 433. 2 *Bott,* 210. 1 *Nolan's Poor Laws,* 344. 428, 429. *See Rex v. Sulgrave, E.* 27 *Geo.* 3. 1 *Term Reports,* 778. 2 *Bott,* 266. 1 *Nolan,* 376. 399. 411. 454. Hiring for eleven months, and to serve one month over.

Hiring with Leave of Absence.

976. Hiring for a year, *subject to a liberty of being absent eleven or twelve days in the sheep-shearing season,* gains no settlement. *Rex v. Empingham, M.* 15 *Geo.* 3. *Burrows's Settlement Cases,* 791. 2 *Bott,* 217. 1 *Nolan's Poor Laws,* 382. Hiring for a year, with liberty of being absent for twelve days.

977. The like hiring, *with the liberty of being absent during the harvest month,* gains no settlement. *Rex v. Bishops Hatfield, H.* 31 *Geo.* 2. *Burrows's Settlement Cases,* 439. 2 *Bott,* 211. 1 *Nolan's Poor Laws,* 382. The like, with liberty of being absent the harvest month.

978. A pauper hired for four years, *with liberty to leave a week in every year to see his friends;* the master not having dominion over the servant for any one entire year, *gains no settlement. Rex v. Rushulme, M.* 49 *Geo.* 3. 10 *East,* 325. *Bott, continued to* 1814, 137. 1 *Nolan's Poor Laws,* 383. Hiring for four years, with liberty to be absent a week every year.

979. A hiring for a year, with liberty to be absent a month in the year to attend his duty as a militiaman, gains a settlement. *Rex v. Westerleigh, T.* 14 *Geo.* 3. *Burrows's Settlement Cases,* 753. 2 *Bott,* 215. 1 *Nolan's Poor Laws,* 383. 396. Hiring for a year, with liberty of being absent on duty in the militia.

980. If a pauper hires himself for a year at 8*s.* a week, and agrees to serve a month at the end of the year, in lieu of a month he should be absent during the year in the militia, gains a settlement. *Rex v.* Hiring for a year at 8*s.* a week, to serve a month over for a month absent during the year in the militia.

Winchcomb, E. 20 *Geo.* 3. *Douglass's Reports,* 391. *Caldecott's Reports,* 94. 2 *Bott;* 221. 1 *Nolan's Poor Laws,* 383.

A pensioner letting himself for a year, stipulating to have two days in each half-year.

981. An East India pensioner letting himself for a year, with a stipulation that he should have *two days* in each half-year to go and receive his pension, defeats his settlement. *Rex v. Over, T.* 41 *Geo.* 3. 1 *East,* 599. 2 *Bott,* 221. 1 *Nolan's Poor Laws,* 382, 383.

Hiring for a year at so much a week, and to be absent during sheep-shearing.

982. Hiring for a year at so much a week, and to be at liberty to be absent during the sheep shearing season, but engaging to find a fit man at *his own expense,* to do his work during his absence, but his *own wages to go on during his absence,* the pauper not being under the control and command of his master for the whole year, gains no settlement. *Rex v. Arlington, T.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports,* 622. *Bott, continued to* 1824, 141. 1 *Nolan's Poor Laws,* 384. 394.

Hiring for a year, with liberty to go away a month in harvest.

983. Hiring for a year, with liberty to go away a month at harvest, and to make up the time after *Michaelmas,* not being a yearly hiring, agreeable to the meaning of the statute, *which meant one entire consecutive period of* 365 *days,* gains no settlement. *Rex v. Turvey, E.* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports,* 520. 1 *Nolan's Poor Laws,* 353, 354. *Rex v. Edgemont, M.* 60 *Geo.* 3. 3 *Barnewall and Alderson,* 107. 1 *Nolan,* 380.

Hiring from Michaelmas to Michaelmas, with an agreement about harvest month.

984. A pauper hired to serve in husbandry from *Michaelmas* 1821, to *Michaelmas* 1822, at weekly wages of 10*s.*, with an agreement, *that if he and his master could not agree for the harvest month, the pauper was to harvest for himself where he pleased;* previously to the harvest month, *the master and pauper agreed* about the harvest month, and the pauper continued in the service *the whole year;* but this not being a hiring for a year *absolutely,* although the pauper *actually* served a year, a *new bargain* having been made for the harvest month, such service did not confer a settlement. *Rex v. Althorne, T.* 4 *Geo.* 4. 2 *Barnewall and Creswell's K. B. Reports,* 112. 1 *Nolan's Poor Laws,* 375.

Stipulation as to Working Hours.

985. An agreement to serve for three years, to work twelve hours a day, and if more, to have so much an hour, was held to be a hiring for three years; the pauper having served a year and a quarter under the hiring, gained a settlement. *Rex v. Ozelworth, T.* 24 *and* 25 *Geo.* 2. *Burrows's Settlement Cases*, 302. 2 *Bott*, 306.

Hiring to serve three years, and work twelve hours a day, and to receive a certain sum if he worked more.

986. A pauper hired for three years, *to work eleven hours a day in the six working days*, and the rest of his time and Sundays to be his own, was not a hiring by which a settlement could be gained. *Rex v. Macclesfield, E.* 31 *Geo.* 2. 2 *Burrows's Settlement Cases*, 458. 2 *Bott*, 211. 1 *Nolan's Poor Laws*, 377.

Hiring for three years, to work eleven hours a day, &c.

987. A hiring for seven years, to work from six in the morning till seven in the evening of each day (*except Sundays*) will not gain a settlement, *the servant should be under the power and coercion of the master during the whole term. Rex v. Kingswinford, E.* 31 *Geo.* 3. 4 *Term Reports*, 219. 2 *Bott*, 225. 1 *Nolan's Poor Laws*, 377, 378.

Hiring for seven years, to work a certain number of hours a day except Sundays.

988. A hiring for five years, to work twelve hours each day, will not gain a settlement. *The above case of Rex v. Kingswinford decided this question. Rex v. North Nibley, M.* 33 *Geo.* 3. 5 *Term Reports*, 21. 2 *Bott*, 226. 1 *Nolan's Poor Laws*, 377.

The like for five years.

989. A hiring to serve for five years as a shearman, and to work shearman's hours only, *which are uncertain*, will not gain a settlement; decided not to be a good hiring for a year, because *there was an exception to work shearman's hours only, and to be at his own liberty at all other times. Rex v. Buckland Denham, H.* 12 *Geo.* 3. *Burrows's Settlement Cases*, 694. 2 *Bott*, 214. 1 *Nolan's Poor Laws*, 377.

Hiring to work shearman's hours only.

990. Where the exception is *part* of the contract, *no settlement can be gained*, but where the *contract* is *absolute*, and the exception is only *implied*, a

If the exception is part of the contract.

settlement will be gained. *Rex v. St. Agnes, T.* 10 *Geo.* 3. *Burrows's Settlement Cases*, 671. 2 *Bott*, 214. 1 *Nolan's Poor Laws*, 404.

Hiring for a year as a bleacher, to get up certain work in a week.

991. Hiring for a year at 12*s.* a week, to work as a bleacher, the custom of the country being to get up a certain number of pieces a week, if the bleacher finish his work in less time, the rest of the time to be his own to do as he pleases; and the custom of the master not to interfere with the workmen on *Sundays* does not defeat the settlement, this being an *express hiring* for a year, and no *express exception* of any part of the year, *and that implied exceptions in the terms of service by the custom of the country, have been held not to break in upon general contracts of hiring for the year. Rex v. Horwick, H.* 49 *Geo.* 3. 10 *East*, 489. *Bott, continued to* 1814, 137. 1 *Nolan's Poor Laws*, 382, 384.

Merchant's clerk hired by the year, serving only during the usual hours of business.

992. A merchant's clerk hired by the year, but serving only during the usual hours of business, *although those hours did not, by the custom of the trade, ever occupy the whole day*, gains a settlement. *Rex v. All Saints, Worcester, H.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports*, 322. 1 *Nolan's Poor Laws*, 376, 377.

Hiring by indenture for a year, to work in a colliery.

993. A person by indenture hired for a year, to act as a driver in a colliery, at the wages of 1*s.* 10*d.* for a good day's work, not exceeding fourteen hours, and 2*d.* a day more when that time was exceeded; and he was to forfeit 10*s.* 6*d.* for every act of disobedience, and 2*s.* 6*d.* a day for lying idle (to be deducted out of his wages). There was a proviso, that nothing in the indenture should be construed to oust the jurisdiction of the justices, or to prevent either master or servant from applying to them in case of dispute, and a covenant that in case the master, about *Christmas*, should wish to repair any engine, &c. belonging to the colliery, &c., he might stop the workings for any period not exceeding seven days, without paying any wages to the pauper, unless employed in other work. This being a *conditional hiring*, and not an *exceptive contract*, a settlement was gained. *Rex v. Inhabitants of Byker*,

T. 4 *Geo.* 4. 2 *Barnewall and Creswell's K. B. Reports,* 114. 1 *Nolan's Poor Laws,* 379.

994. An agreement was made between *A.* and *B.*, that the latter should serve for three years, at 1*s.* a day, when *B.* had work to do, and when he had no work *A.* was not to be paid. At the time when the agreement was made, the master told the servant, that he should not have work for him during the whole year, and particularly during the winter, and that when he had not work for him, he might get work from other people. It was held that this was an exceptive hiring, and that the pauper having worked for other people during the winter season, when his master had no work, and having at other times worked for his master during two successive years, *did not gain a settlement. Rex v. Inhabitants of Poleworth, T.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 715.

995. A pauper had been hired for three years at 20*l.* per annum as a looker. The duty of a looker is to superintend the flocks and fences of his employer. When he was hired, his master told him that he should not have full employment for him, but that he would employ him as much as he could, and he was not to do any work for his master other than that belonging to the office of looker, without receiving extra wages. During the first year and three-quarters, he worked for his master only, but was always paid extra for any work not belonging to his office of looker. It was held that there was not any hiring and service for a year, and that the pauper did not gain a settlement by service under such a hiring. *Rex v. Inhabitants of Lydd, E.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 754.

Hiring for three years as a looker on.

Weekly and Monthly Wages and Notice.

996. A hiring to serve in the business of a *plumber* and *glazier* at 6*s. a week, board, lodging, and washing, summer and winter,* is not a hiring for a year, but a weekly hiring. *Rex v. Dedham, M.*

A week's hiring at 6*s.* a week, with board, lodging, and washing.

10 *Geo.* 3. *Burrows's Settlement Cases*, 653. 2 *Bott*, 198. 1 *Nolan's Poor Laws*, 367, 369. 374.

Hiring at 4s. 6d. a week is not a general hiring.

997. A hiring at so much a week as an ostler, *is not a general* hiring; but if there is any thing in the contract to show that the hiring was intended to be for a year, then a reservation of weekly wages will not control that hiring. *Rex v. Newton Toney, E.* 28 *Geo.* 3. 2 *Term Reports*, 453. 2 *Bott*, 223. 1 *Nolan's Poor Laws*, 367. *Rex v. Odeham, T.* 28 *Geo.* 3. 2 *Term Reports*, 622. 2 *Bott*, 224. *n.* 1 *Nolan*, 368.

When nothing is said as to hiring and wages paid weekly.

998. When nothing is said as to the hiring, and the wages are paid weekly, it is only a weekly hiring. *Rex v. Pucklechurch, T.* 44 *Geo.* 3. 5 *East*, 382. 1 *Smith's Reports*, 552. 2 *Bott*, 233. 1 *Nolan's Poor Laws*, 369.

Hiring at per week for so long as parties agree.

999. A hiring at so much a week for as long time as the master and servant could agree, is only a weekly hiring, and under which no settlement can be gained. *Rex v. Mitcham, E.* 50 *Geo.* 3. 12 *East*, 351. *Bott, continued to* 1814. 1 *Nolan's Poor Laws*, 368.

Hiring by a servant in husbandry at weekly wages.

1000. A hiring by a servant in husbandry to serve for the weekly wages of 4*s.*, board, lodging, and washing, except in the harvest month, when his wages were to be increased to 10*s.* 6*d.* a week, and then again reduced to 4*s.* a week, is only a weekly hiring, and does not gain a settlement. *Rex v. Dodderhill, M.* 55 *Geo.* 3. 3 *Maule and Selwyn's Reports*, 243. 1 *Nolan's Poor Laws*, 370.

Weekly wages of 8s., and two guineas for the harvest.

1001. A person hiring at 8*s. a week, and two guineas for the harvest,* to do any thing the gardener should order, and serving four years under this hiring. It not distinctly appearing whether the two guineas were to be paid *de incremento*, or were to cover the whole harvest, and the hiring appearing to be by the week, no settlement gained. *Rex v. Lambeth, T.* 55 *Geo.* 3. 4 *Maule and Selwyn's Reports*, 315.

Wages and Notice.

1002. A pauper hired himself, and agreed to live *by the week, at 2s. 6d. a week, and to part at a fortnight's or month's notice*, although there was a service of four years under this hiring, yet the pauper *being under no obligation to serve for a year*, it was only a weekly hiring, and no settlement gained: in order to gain a settlement, there must be *an obligation* upon the pauper to serve a year. *Rex v. Inhabitants of Bradnich, H.* 10 *Geo.* 3. *Burrows' Settlement Cases*, 662. 2 *Bott*, 199. 1 *Nolan's Poor Laws*, 373. Hiring by the week, and agreement to part at a fortnight or a month.

1003. A hiring by the month, at a month's wages, or a month's warning, is only a hiring for a *month*, and *not a yearly* hiring. *Rex v. Clare, M.* 16 *Geo.* 3. *Burrows' Settlement Cases*, 819. 2 *Bott*, 200. 1 *Nolan's Poor Laws*, 367. 372. Month's wages or month's warning.

1004. Hiring at 3*s.* a week "*the year round*," with liberty to quit at a fortnight's notice, *gains a settlement. Rex v. Birdbrooke, E.* 31 *Geo.* 3. 4 *Term Reports*, 245. 2 *Bott*, 226. 1 *Nolan's Poor Laws*, 371. (*see pl.* 1007.) Hiring by the week the year round.

1005. Hiring at so much a week, and liberty to part on a month's notice, is a general hiring, and *gains a settlement. Rex v. Hampreston, E.* 33 *Geo.* 3. 5 *Term Reports*, 205. 2 *Bott*, 207. 1 *Nolan's Poor Laws*, 367. 371. With liberty to part on a month's notice.

1006. A hiring to work at 3*s.* 6*d.* a week, with a condition to part at a week's notice, does *not gain a settlement. Rex v. Stanbury, T.* 42 *Geo.* 3. 2 *East*, 423. 2 *Bott*, 231. 1 *Nolan's Poor Laws*, 332. With liberty to part at a week's notice.

1007. A hiring at weekly wages, either party to be at liberty to part at *a month's notice*, is a yearly hiring. *Rex v. Great Yarmouth, E.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports*, 114. 1 *Nolan's Poor Laws*, 371. (*see pl.* 1004. *ante*). Weekly wages, either to be at liberty to part.

What is a Service for a Year.

Hiring for a year, and service under it.

1008. There ought to be one entire contract or hiring, and one entire service for a year (*a whole year*) pursuant to the contract, to gain a settlement. *Dunsford v. Ridgwick, M.* 9 *Anne. Foley's Poor Laws,* 133. 2 *Bott,* 250. 1 *Nolan's Poor Laws,* 356. *Blackerby's Justice, edit.* 1749. 1794. (*See p.* 98. *pl.* 12. *ante*).

Hiring for half a year, and a second hiring for a whole year.

1009. A settlement may be gained by a maid servant, by a service under a hiring for half a year, and a second hiring for a whole year, and serving under it for a half year. *South Moulton, H.* 10 *W.* 1 *Lord Raymond's Reports,* 426. *Rex v. Overton, H.* 10 *W. Burrows' Settlement Cases,* 549. *n.* 2 *Bott,* 250. 1 *Nolan's Poor Laws,* 446.

Hiring at three weeks after Michaelmas to Michaelmas, and then serving eleven months.

1010. A hiring from three weeks after *Michaelmas* to *Michaelmas,* and then a hiring for a year, and service for eleven months after the second hiring, gains a settlement. *Brightnell v. Westhallam, E.* 1 *Geo.* 1. 1 *Sessions Cases,* 87. *Foley's Poor Laws,* 143. 2 *Bott,* 251. 1 *Nolan's Poor Laws,* 460.

Hiring from Christmas to Michaelmas, and then hiring for a year.

1011. A hiring and service from *Christmas* to *Michaelmas,* and then a hiring for a year, and service till *Midsummer* under the second hiring, gains a settlement. *Rex v. Aynhoe, M.* 1 *Geo.* 2. 2 *Sessions Cases,* 119. *Foley's Poor Laws,* 144. 2 *Bott,* 253. 1 *Nolan's Poor Laws,* 446.

Hiring and service from Christmas to Whitsuntide, and then hiring for a year, and service till March.

1012. A hiring and service from *Christmas* to *Whitsuntide,* and then a hiring for a year, and service till the beginning of the *March* after the *Christmas,* gains a settlement. *Rex v. Underbarrow and Bradley-field, H.* 6 *Geo.* 3. *Burrows' Settlement Cases,* 545. 2 *Bott,* 259. 1 *Nolan's Poor Laws,* 447.

Hiring and service for less than a year.

1013. A hiring and service *for less* than a year, and then a hiring for a year, but only ten days service under the yearly hiring, *will gain a settlement. Rex v. Adam, H.* 33 *Geo.* 3. 5 *Term Reports,* 98. 1 *Nolan's Poor Laws,* 460.

Connected Service under different Hiring.

1014. A hiring and service for a year, at 18*s.* wages, in one parish, and then hiring for another year at 25*s.* wages, and service for part of latter year in another parish, is a continuance of the same service, *and a settlement is gained where the service was concluded. Rex v. Underbarrow and Bradley-field, H.* 20 *Geo.* 3. *Douglass's Reports,* 309, *edit.* 1813. *Caldecott's Reports of Settlement Cases,* 65. 2 *Bott,* 262. 1 *Nolan's Poor Laws,* 460.

Hiring and service at weekly wages in one parish, and hiring and service for another year in another parish.

1015. A hiring *for a year,* with a continued service, under a renewed engagement for another year, *gains a settlement. Rex v. Overnorton, E.* 52 *Geo.* 3. 15 *East,* 347. *Bott, continued to* 1814, 139. 1 *Nolan's Poor Laws,* 367. 457.

Hiring for a year under a renewed engagement for another year.

1016. It was formerly held a weekly hiring *could not be connected* with a yearly hiring, if the service under the weekly hiring was not similar in kind to that under the yearly hiring, but if similar in kind, they *might be connected. But now there is no distinction to be made between services similar and dissimilar.*

Weekly hiring connected with a yearly hiring.

1017. A hiring for a year, and a service for a year, though but a small part of the service was performed under the yearly hiring, *gains a settlement. Rex v. Sutton, T.* 41 *Geo.* 3. 1 *East,* 656. 2 *Bott,* 272. 1 *Nolan's Poor Laws,* 342. 447. 455.

Hiring and service for a year, though a small part of the service is performed.

1018. A hiring for a year in one parish, and a service continued beyond the year for six months, without a new agreement in another parish, *gains a settlement* in the place where the service was performed for the last forty days. *Rex v. Croscombe, M.* 19 *Geo.* 2. 2 *Sharpe's Reports,* 1240. *Burrows' Settlement Cases,* 256. 2 *Bott,* 278. 1 *Nolan's Poor Laws,* 445. 447.

Hiring for a year, and service beyond the year, without a new agreement.

1019. A hiring from *November* to *Michaelmas,* and the servant continues in the service till the second day after *Michaelmas,* without any new agreement, and on that day a new agreement is made for a year from that day, the two services may be coupled

Hiring from November to Michaelmas, and a confirmation of service afterwards, without a new agreement.

by the means of the service upon the intervening day, held to be a good hiring and service for a year. *Rex v. Sulgrave, E.* 27 *Geo.* 3. 1 *Term Reports*, 778. 2 *Bott*, 266. 1 *Nolan's Poor Laws*, 376. 399. 411. 454. (*see pl.* 1018, *above*).

Where a new contract is entered into on the last day of the first contract.

1020. If a *new contract* is entered into on the *last day* of the first contract, there is no discontinuance, though there is *an hour's interval* between the termination of the first service, and the beginning of the second service, and the servant *leaves the place for that hour*, or any other interval, if it is part of a day only. *Rex v. Fifehead, Magdalen, M.* 11 *Geo.* 2. *Burrows' Settlement Cases*, 116. 2 *Bott*, 256. 1 *Nolan's Poor Laws*, 445, 446. 452. *Rex v. Ellisfield, H.* 17 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 4. 2 *Bott*, 261. 1 *Nolan's Poor Laws*, 453.

Settlement under two hirings.

1021. A settlement may be gained by assent under two hirings, where the *yearly* hiring preceded that which was *for less* than a year, and there may be an interval between the two services; if *one ends* and the *other begins on the same day*, such discontinuance will not prevent a settlement, even though the servant quits during the interval. *Rex v. Grendon Underwood, T.* 23 *Geo.* 3. 2 *Bott*, 264. *Caldecott's Reports of Settlement Cases*, 359. 1 *Nolan's Poor Laws*, 390. 449. 460.

Hiring for part of a year, and fresh agreement.

1022. A pauper was to serve for a part of a year. Three weeks before the expiration of the period of service, the mistress asked the pauper to stay again. The pauper replied, that she had no objection if they could agree about wages. They did agree for 3*l.* 10*s.* 6*d.*, and 1*s.* earnest was paid; nothing was then said as to the time for which the pauper was to serve, but a week afterwards the mistress said to the pauper, "I have hired you, but mentioned no time, remember that you are hired for fifty-one weeks," to which the pauper assented. It was held that this was a good hiring for a year. *Rex v. Inhabitants of Market Bosworth, E.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports*, 757.

Hiring for 51 weeks, may be

1023. A service under a hiring for fifty-one weeks

may be coupled with a service under a previous hiring for a year, so as to confer a settlement. *Rex v. Fillongley, H.* 58 *Geo.* 3. 1 *Barnewall and Alderson's K. B. Reports,* 319. 1 *Nolan's Poor Laws,* 434. 451. coupled with a yearly hiring.

1024. A hiring first for a year, and agreeing in the middle of the year to work by the piece, the new agreement determines the contract, and *no settlement gained. Rex v. Alton. E.* 24 *Geo.* 3. 2 *Bott,* 222. 1 *Nolan's Poor Laws,* 416. 451.

1025. A servant marrying during the first service, *cannot gain a settlement* under a subsequent hiring for a year. *Rex v. St. Giles's, Reading, T.* 18 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 54. 2 *Bott,* 261. 1 *Nolan's Poor Laws,* 457. Marrying during first service.

1026. Where there is a service for less than a year, and then the servant marries, and makes a new contract, *he cannot gain a settlement* by service under the last contract. *Rex v. Great Chilton, T.* 34 *Geo.* 3. 5 *Term Reports,* 672. 2 *Bott,* 268. 1 *Nolan's Poor Laws,* 415. 447. Service for less than a year, and marriage and new contract.

1027. If, during a service under a hiring for a year, there is a second agreement for another year, to commence immediately at different wages, and for a different sort of service, it is a dissolution, and a mere variation of the first contract. *Ibid.* Second agreement during the service for a second year.

Change of Master.

1028. If a master lets his farm, and the tenant enters, and the servant continues with him for the remainder of his year, and also if the servant continues with an executor for the remainder of the year, he *gains a settlement. Rex v. Ivinghoe, E.* 4 *Geo.* 1. 1 *Sessions Cases,* 121. *Cases in K. B. concerning the Poor,* 109. 1 *Strange's Reports,* 90. 2 *Bott,* 293. 1 *Nolan's Poor Laws,* 462. *Rex v. Ladock, E.* 15 *Geo.* 2. *Burrows' Settlement Cases,* 179. 2 *Bott,* 277. 1 *Nolan's Poor Laws,* 461. Servant continuing after the master lets his farm.

Of Dispensation.

Servant absenting without leave and received back again.

1029. If a servant absents himself beyond the leave given him by his master, and his master receives him again, it will not prevent a settlement. A servant while ill, is still under the service of his master, and a settlement is not prevented; and a servant who absents himself for a reasonable cause at the end of his service, and against his master's leave, gains a settlement. *Rex v. Islip, E.* 7 *Geo.* 1. *Cases in K. B. concerning the Poor,* 129. 1 *Strange's Reports,* 428. 2 *Bott,* 300. 1 *Nolan's Poor Laws,* 391. 406, 407. 410, (*see pl.* 1031.)

A hiring for a year, and the servant does not come into service till three days after, and is received.

1030. If a servant hired for a year from *Michaelmas,* does not come into his service till three days after *Michaelmas,* and absents himself at different times without the consent of his master, but his master receives him again, it *is a dispensation,* and a settlement gained. *Rex v. Stanbury, T.* 26 *and* 27 *Geo.* 2. *Burrows' Settlement Cases,* 322. 2 *Bott,* 307. 1 *Nolan's Poor Laws,* 410.

Servant running away, and taken back.

1031. If a yearly servant runs away from his master, and is absent for thirteen weeks, and then his master apprehends him by a justice's warrant, and gives him leave to come back, deducting a sum from his wages for the time he was absent, *it is a dispensation,* and a settlement gained. *Rev v. East Shefford, T.* 32 *Geo.* 3. 4 *Term Reports,* 804. 2 *Bott,* 335. 1 *Nolan's Poor Laws,* 394.

Servant quitting on account of illness, and does not return, but is paid her wages.

1032. If a servant, at her master's instance, goes from his family on account of illness, to the hospital, and her mistress gives her the remainder of her wages, and she never returns, it is a dispensation; *illness is not such an interruption* as to prevent a settlement. *Rex v. Christchurch, E.* 39 *Geo.* 2. *Burrows' Settlement Cases,* 494. 2 *Bott,* 310. 1 *Nolan's Poor Laws,* 406.

Absence on account of illness at the end of the service.

1033. Absence on account of illness at the end of the service is no dissolution, although the master deduct a sum from the wages on account of the

absence. *Rex v. Maddrington, H.* 11 *Geo.* 3. *Burrows' Settlement Cases,* 675. 2 *Bott,* 312. 1 *Nolan's Poor Laws,* 391, 406, *n.*

Hiring for a year, and not entering upon it on account of illness.

1034. If a person is hired for a year, and he is prevented by illness from entering upon his service at the time agreed upon, and on going to his place his master refuses to receive him, but he continues there on an agreement *to take what he should be allowed,* the service only commences at the second agreement. *Rex v. Wintersett, E.* 23 *Geo.* 3. *Caldecott's Reports of Settlement Cases.* 2 *Bott,* 263. 1 *Nolan's Poor Laws,* 407, 415, 424, 460.

Master leaving his house before the servant's year is out, and payment of wages.

1035. If the master leaves his house accidentally before the servant's year is ended, and pays her *the whole year's wages,* and something over, and the servant two days after enters another service, it is still a dispensation. *Rex v. St. Bartholomew, Cornhill, E.* 18 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 48. 2 *Bott,* 318. 1 *Nolan's Poor Laws,* 403.

Master becoming bankrupt, and servant discharged on receiving the whole year's wages.

1036. If the master becomes a bankrupt, and the messengers take possession of the house, and the mistress discharges the servant, paying the *whole year's wages,* it is a dispensation, *and the servant gains a settlement by such hiring and service. Rex v. St. Andrew's, Holborn, T.* 28 *Geo.* 3. 2 *Term Reports,* 627. 2 *Bott,* 330. 1 *Nolan's Poor Laws,* 464.

Difference between master and servant, and wages paid in full.

1037. Where there is a difference between a mistress and her servant, and the mistress discharges the servant, and pays her her full wages, which she accepts, *it is a dispensation* with the service. *Rex v. St. Philip in Birmingham, T.* 28 *Geo.* 3. 2 *Term Reports,* 624. 2 *Bott,* 329. 1 *Nolan's Poor Laws,* 411.

Master quitting his house and paying full wages to the servants.

1038. If the master quits his house, and tells his servants he has no longer occasion for their services, and pays their full wages, *it is a dispensation* with the service. *Rex v. St. Mary, Lambeth, E.* 39 *Geo.* 3. 8 *Term Reports,* 236. 2 *Bott,* 343. 1 *Nolan's Poor Laws,* 405.

1039. If a master turns away his servant, to pre-

Turning away a servant to prevent settlement.

vent his gaining a settlement, *it is a fraud,* and the settlement of the servant will not be defeated. *Eastland v. Westhorsley, T.* 8 *Geo.* 1. 1 *Strange's Reports,* 526. 2 *Bott,* 302. 1 *Nolan's Poor Laws,* 409.

Quitting a service to gain a settlement in another parish.

1040. Quitting the service, because the servant wished to be settled in another place, *is fraudulent,* and amounts only to a dispensation. *Rex v. Frome Selwood, T.* 6 *Geo.* 3. *Burrows' Settlement Cases,* 365. 2 *Bott,* 312. 1 *Nolan's Poor Laws,* 412.

Master discharging a servant to prevent settlement.

1041. If, after a person is hired for a year, the master tells him, "he shall go away a fortnight at Michaelmas, because of his settlement, and at the year's end pays him a year's wages, it is a dispensation, and not a dissolution. *Rex v. Sulgrave, E.* 28 *Geo.* 3. 2 *Term Reports,* 376. 2 *Bott,* 326. 1 *Nolan's Poor Laws,* 399. 411. 421.

Master dying and servant continuing with the widow.

1042. Where the master died three weeks after hiring a servant for a year, the latter, continuing in the service with the widow and sons to the end of the year, *gains a settlement* in the parish where she served. *Rex v. Hardhorn with Newton, H.* 50 *Geo.* 3. 12 *East,* 51. *Bott's Poor Laws continued to* 1814. 1 *Nolan's Poor Laws,* 409.

Absence of the servant on the master's account and at his request.

1043. Absence of the servant on the master's account, and at his request, *is a dispensation,* inasmuch as the absence originates with the master in whom the power of dispensation is vested, and is only acquiesced in by the servant. *Rex v. Market Bosworth, H.* 5 *Geo.* 4. *MSS. Barnewall and Creswell's K. B. Reports,* (*see pl.* 1041.)

Servant leaving on the last day of his year.

1044. If a servant, on the last day of his year, desires his master to discharge him that he may go and see his friends, and his master does so, deducting sixpence for that day, *it is a dispensation,* and the servant gains a settlement. *Rex v. Potter Heigham, T.* 11 *Geo.* 3. *Burrows' Settlement Cases,* 690. 2 *Bott,* 316. 1 *Nolan's Poor Laws,* 407, 408, 412.

Servant quitting thirteen days before the end of the year, but receiving his full wages.

1045. If the master gives the servant leave to go thirteen days before the end of his year, and pays him his full wages, *it is a dispensation;* there is no

necessity of an actual service upon every day in the year; the master can always dispense with it. *Rex v. Richmond, E.* 13 *Geo.* 3. *Burrows' Settlement Cases,* 740. 2 *Bott,* 316. 1 *Nolan's Poor Laws,* 402.

Servant absenting with leave before the end of the year, and paying his master his earnings.

1046. If a servant absents himself with his mistress's leave, for the last five weeks of his service, and at the end of the year he pays his mistress the whole sum earned by him during his absence, *it is a dispensation. Rex v. Nether Heyford, E.* 32 *Geo.* 2. *Burrows' Settlement Cases,* 479. 2 *Bott,* 309. 1 *Nolan's Poor Laws,* 395.

1047. If a yearly servant, with the consent of his master, procures another person to take his place, paying such person himself, and he receives from his master his whole year's wages, *it is a dispensation. Rex v. Goodnestone, T.* 19 *Geo.* 2. 2 *Strange's Reports,* 1132. *Burrows' Settlement Cases,* 251. 2 *Bott,* 305. 1 *Nolan's Poor Laws,* 394.

Service with other masters with consent of the first master.

1048. Service with other masters by the first master's consent, he taking him again, *is service under a dispensation. Rex v. Beccles, E.* 17 *Geo.* 2. 2 *Strange's Reports,* 1207. *Burrows' Settlement Cases,* 230. 2 *Bott,* 294. 1 *Nolan's Poor Laws,* 396, 462.

Servant committed to the house of correction on the complaint of the master, and afterwards returning and serving out the year.

1049. Where a yearly servant on complaint of the master was committed to the house of correction, and after nine days' confinement was discharged on the master's application, and he returned to his service and served out the year; *the commitment and imprisonment under it did not operate as a dissolution of the contract. Rex v. Barton upon Irwell, H.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 329. *Bott's Poor Laws continued to* 1814.

The like for one month, which did not expire until after the end of the year.

1050. Where a master, who had hired a servant for a year, at the expiration of eleven months made a complaint against him before a justice of the peace, and the latter under the provision of the 20 *Geo.* 2. *c.* 19. *s.* 2, committed the servant to the house of correction for one calendar month, which did not expire until after the end of the year for which he had been hired; it was held that this was an abiding in the master's service for a whole year, within the

meaning of the 8 *and* 9 *W.* 3. *c.* 90, and that the servant thereby *gained a settlement*. *Rex v. Inhabitants of Hallow, E.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports*, 730.

Dissolution.

Servant quitting and providing another to supply his place.

1051. A servant eleven weeks before the end of his year, in order to procure a discharge from his master, engages another to supply his place, and hires himself to another master for the remainder of the year, *it is a dissolution of the contract. Rex v. Mildenhall, T.* 50 *Geo.* 3. 12 *East*, 482. *Bott's Poor Laws continued to* 1814. 1 *Nolan's Poor Laws*, 399, 465.

Servant turned away and taking his wages.

1052. If a master insists upon turning his servant away and lays down his wages, which the servant takes up and goes away, *it is a dissolution of the contract*, though the servant afterwards returns at the request of his master. *Rex v. Gresham, H.* 26 *Geo.* 3. 1 *Term Reports*, 101. 2 *Bott*, 326. 1 *Nolan's Poor Laws*, 417.

Servant turned away, and refusing to go again, but receiving his wages.

1053. If a servant is turned out of doors by his master, and refuses to go again, though requested by his master, and receives his wages and departs, contrary to the *express request* of his master, *it is a dissolution of the contract. Rex v. Grantham, T.* 50 *Geo.* 3. 3 *Term Reports*, 754. 2 *Bott*, 331. 1 *Nolan's Poor Laws*, 394. 437. 444.

Servant goes nine days before the year is out.

1054. If a servant nine days before the year is out goes away on a *Sunday* morning to get another place when his year should be up, and does not return till *Tuesday* morning, when his master tells him he may go and serve the master he has worked for the day before, and pays him his wages to that time, and will not let him serve out the year, *it is a dissolution of the contract. Rex v. Clayhydon, M.* 31 *Geo.* 3. 4 *Term Reports*, 100. 2 *Bott*, 332. 1 *Nolan's Poor Laws*, 426. (*See pl.* 1032, 1048, *ante.*)

Ill-treatment by the master.

1055. Where upon ill-treatment by the master

the servant requires to be dismissed, and the master pays her whole year's wages, and tells her she may serve the remainder of her time, and she refuses, *it is a dissolution of the contract. Rex v. Upwell, M.* 38 *Geo.* 3. 7 *Term Reports,* 438. 2 *Bott,* 343. 1 *Nolan's Poor Laws,* 428. 444.

A master refusing to take a servant back.

1056. A master refusing to take his servant back, and the servant taking the wages, and offering herself to others as a servant, *is a dissolution of the contract. Rex v. King's Pyon, M.* 44 *Geo.* 3. 4 *East,* 351. 2 *Bott,* 347. 1 *Nolan's Poor Laws,* 432.

Servant taken ill sending for his clothes.

1057. A servant being taken ill, and sending for his clothes and money, which his master sends, deducting for the absence during illness, *it is a dissolution. Rex v. Whittlebury, M.* 36 *Geo.* 3. 6 *Term Reports,* 464. 2 *Bott,* 340. 1 *Nolan's Poor Laws,* 385. 425.

Servant hiring without specifying any time, according to the custom of the country.

1058. A pauper having hired himself without specifying any time, entered into the service the day before new year's day, and quitted two days after Christmas, receiving his full wages; that being the usual time that servants, according to the custom of the country, go into and leave their places, it was held to be hiring and service for a year. *Rex v. the Inhabitants of Tyrley, T.* 2 *Geo.* 4. 4 *Barnewall and Alderson's K. B. Reports,* 624.

Servant taken ill, receiving wages, and going to the hospital and not returning.

1059. If after a hiring for a year a servant is taken ill and receives voluntarily his whole year's wages, and leaves his service, and goes to the hospital and never returns, *it is a dissolution. Rex v. Sudbrooke, M.* 44 *Geo.* 3. 4 *East,* 356. 2 *Bott,* 349. 1 *Nolan's Poor Laws,* 414. 424.

Where terms are mentioned but no agreement.

1060. Terms mentioned, but no agreement till a week after Michaelmas, when the servant entered upon the place, which she left after giving warning for the following *old Michaelmas-day, it was held to be a dissolution before the end of the year. Rex v. Rushall, T.* 46 *Geo.* 3. 7 *East,* 471. 1 *Nolan's Poor Laws,* 389. 418.

Consent by the master for the servant to quit two days before the year is out.

1061. Where a master consents to his servant's leaving his service two days before the end of his year,

and pays him his full wages, it was held to be *a dissolution of the contract. Rex v. Maidstone, T.* 50 *Geo.* 3. 12 *East,* 550. *Bott's Poor Laws, continued to* 1814, 148. 1 *Nolan's Poor Laws,* 332. 414.

Master turning away his servant and taking him back again under an order of justices.

1062. Where upon the master's insisting that the servant should leave his house, and afterwards the servant asks a magistrate's order to be received again, or paid his whole wages, and he afterwards enters upon another service, *it is a dissolution. Rex v. Leigh, T.* 46 *Geo.* 3. 7 *East,* 539. 1 *Nolan's Poor Laws,* 420, 433.

Servant going away before the year is out with consent.

1063. If a servant, three weeks before his year is out, goes away with his master's consent, and 6s. is abated from his wages, it is a *dissolution of the contract. Pawlett v. Burnham, M.* 1 *Geo.* 1. *Cases in K. B. concerning the Poor,* 84. *Foley's Poor Laws,* 187. 1 *Sessions Cases,* 71.

Servant going away before the year is out, and the service expires during his absence.

1064. If a servant, with his master's consent, goes away from his service, and the year expires during his absence, *he loses his settlement,* though the whole year's wages are paid. *Row v. Castlechurch, M.* 9 *Geo.* 2. 2 *Strange's Reports,* 1022. (*there called Seaford v. Castlechurch*). *Burrows' Settlement Cases,* 63. 2 *Bott,* 304. 1 *Nolan's Poor Laws,* 428.

Servant quitting, and taking wages for the time he has served.

1065. If a servant part from his master with his own consent, and takes the money for the time he served, *it is a dissolution. Rex v. Seagrave, H.* 23 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 247. 2 *Bott,* 321. 1 *Nolan's Poor Laws,* 414. 426.

Servant going with his master's consent to another service.

1066. If, at the servant's request, the master gives him leave to go to another service, though he pays him the full wages, *it is a dissolution. Rex v. Thistleton, H.* 35 *Geo.* 3. 6 *Term Reports,* 185. 2 *Bott,* 339. 1 *Nolan's Poor Laws,* 420—428. 463.

Servant going away after six months service, and receiving wages for the time.

1067. If, after six months service, the servant, on being paid his wages for the time, goes away for a fortnight, it was held to be a *dissolution,* though he afterwards returns, and stays the remainder of the year without any new agreement. *Rex v. Ross, T.* 11. *Geo.* 1. *Burrows' Settlement Cases,* 688. 2 *Bott,* 315. 1 *Nolan's Poor Laws,* 417.

Maid servant discharged for bastardy.

1068. A maid servant discharged for bastardy is a dissolution. *Rex v. Marlborough, T.* 12 *W.* 3. 2 *Bott*, 299. 1 *Nolan's Poor Laws*, 388, 3*d edit.* *Rex v. Brampton, H.* 17 *Geo.* 3. 2 *Bott*, 317. 1 *Nolan*, 435. 440. *Rex v. Welford, T.* 18 *Geo.* 3. 2 *Bott*, 319. 1 *Nolan*, 439.

A servant apprehended for bastardy, and detained from service.

1069. If a servant is apprehended on a charge of bastardy, and is detained for some days from his service, *he cannot gain a settlement. Rex v. Westmeon, M.* 22 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 129. 2 *Bott*, 320. 1 *Nolan's Poor Laws*, 440. *Rex v. North Cray, H.* 25 *Geo.* 3. 2 *Bott*, 322. *Caldecott*, 495. 1 *Nolan*, 441. *Rex v. East Kennett, M.* 26 *Geo.* 3. 2 *Bott*, 324. *Caldecott*, 562. 1 *Nolan*, 443.

Servant discharged, and told to go where he liked.

1070. Where the master of a yearly servant, twenty-eight days before the end of his year, gave up his business, and paid off and discharged the servant, paying him his full wages, and telling him to go where he liked, and the servant took his wages, left the house, and worked with another person, with the master's knowledge, during the twenty-eight days, it was held to be *a dissolution of the contract. Rex v. Bray, T.* 54 *Geo.* 3. 3 *Maule and Selwyn's Reports*, 20. 1 *Nolan's Poor Laws*, 422.

Hiring before Martinmas, and no time of service mentioned.

1071. A pauper was hired three weeks before Martinmas, at 4*l.* wages, and received 1*s.* earnest, but no period was mentioned for duration of the service. The pauper went to the service a week after Martinmas, and upon the same day his master told him that it was not the custom to hire servants in that parish for more than fifty-one weeks; that he forgot to mention it at the time when he hired him; and therefore that, if he had no objection, he would hire him again for fifty-one weeks, and give him another shilling for earnest. The pauper accepted it, and remained in the service till the Martinmas following. There not having been a year's service, the sessions held that there had been a dissolution of the original contract, and not a dispensation with the week's service. It was held, that this was a

question of fact for the sessions, and that they having determined it, the Court of *K. B.* refused to disturb their decision. *Rex v. Inhabitants of Bottesford, E.* 6 *Geo.* 4. 4 *Barnewall and Creswell's Reports, p.* 84.

Forty days residence.

1072. The forty days residence necessary to confer a settlement by hiring and service must be within the compass of a year, but need not be under the same year's hiring. *Rex v. Inhabitants of Findon, E.* 6 *Geo.* 4. 4 *B. H.'s Rep. p.* 91.

Infant pauper may gain a settlement by hiring and service with his father.

1073. An infant pauper may gain a settlement by hiring and service with his father. *Rex v. Inhabitants of Chillesford. Rex v. Inhabitants of Winslow, E.* 6 *Geo.* 4. 4 *B. and C.'s Rep. p.* 94.

1074. A butcher agreed to occupy a stall in a market at 2*s.* 6*d.* per week. The stall was a permanent building, with a door capable of being locked, and the key was in his possession, but he had right of access to the stall on two days in the week only; on the other days, the market was closed. The pauper used the stall on the market days for a period of nineteen weeks, and paid rent for that time. It was held that he had occupied the stall for thirty-eight days only, and therefore *gained no settlement. Semble,* that this was a coming to settle upon a tenement within the meaning of the 13 and 14 *Car.* 2. *c.* 12, *s.* 1, (*p.* 220, *pl.* 788, *ante.*) *Rex v. Inhabitants of Caversham, M.* 6 *Geo.* 4. 4 *Barnewall and Creswell's Reports,* 683.

Residence.

Less than forty days residence.

1075. Less than *forty days* residence in any parish will not gain a settlement. *Goring v. Moltsworth, E.* 4 *Geo.* 2. *Sessions Cases,* 327. *Cases in King's Bench concerning Poor,* 219. 1 *Barnadiston's Reports,* 436. 2 *Bott,* 277. 1 *Nolan's Poor Laws,* 423.

The forty days need not be together, but within the year.

1076. It is not necessary that the *forty days* should be *together without interruption;* if within the compass of a single year it is sufficient. *Green-*

wich v. Langdon, M. 18 *Geo.* 2. *Burrows' Settlement Cases,* 243. 2 *Bott,* 278. 1 *Nolan's Poor Laws,* 421, 3*d edit. Rex v. Denham, H.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports,* 221. *Bott's Poor Laws continued to* 1814, 142. 1 *Nolan,* 430, 3*d edit.* (*see p.* 45, *pl.* 1, 2, 3. *ante*).

Service of the last forty days in different parishes.

1077. Where the last *forty days* service is in different parishes, the pauper is settled where he lodges *the last night. Lowess v. Lanstephen, E.* 16 *Geo.* 3. *Burrows' Settlement Cases,* 825. 2 *Bott,* 286. 1 *Nolan's Poor Laws,* 422, 3*d edit. Rex v. Holland, E.* 21 *Geo.* 3. *Douglass's Reports,* 657. *Caldecott's Reports of Settlement Cases,* 118. 2 *Bott,* 288. 1 *Nolan,* 422, 3*d edit.*

Service with one master in different parishes.

1078. Service with the same master half-a-year in one parish, and half-a-year in another parish, *gains a settlement in the last place. Rex v. Ashton, T.* 12 *Ann. Foley's Poor Laws,* 88. *Cases in K. B. concerning Poor,* 23. 2 *Bott,* 273. 1 *Nolan's Poor Laws,* 420, 3*d edit. Rex v. Iveston, E.* 23 *Geo.* 3. 2 *Bott,* 289. 1 *Nolan,* 422, 3*d edit. and Lowess v. Lanstephen,* (*pl.* 1077.)

A yearly servant serving forty days in one parish, and going to another parish and serving above forty days.

1079. A yearly servant serves *forty days* in the parish of A. then goes, *with his master's leave,* to the parish of B (his father's parish), and remains there *above forty days,* then goes to another parish to work for his master, and then for the last *three days* sleeps in the parish of B, *gains a settlement in B. Rex v. Undermilbeck, M.* 34 *Geo.* 3. 5 *Term Reports,* 387. 2 *Bott,* 291. 1 *Nolan's Poor Laws,* 392. 396. 397. 428.

Pauper is settled where the last forty days service is.

1080. A pauper is settled in the parish where he serves *the last forty days,* although the master has no settlement there. *Bishop's Hatfield v. St. Peter's in St. Alban's, H.* 1 *Geo.* 1. *Foley's Poor Laws,* 197. 2 *Strange's Reports,* 794. 2 *Bott,* 276. 1 *Nolan's Poor Laws,* 424, 3*d edit.*

Settlement gained where the master never lived.

1081. A settlement may be gained by a service in a parish, *though the master never lived there. St. Peter's in Oxford v. Chipping Wycomb, M.* 9 *Geo.* 1. 1 *Strange's Reports,* 528. *Foley's Poor Laws,* 200. 2 *Bott,* 275. 1 *Nolan's Poor Laws,* 424, 3*d edit.*

Settlement gained by service, though the master is a visitor only.

1082. A servant will gain a settlement by service to his master, though his master is a visitor only, and such servant may be said to be hired in every parish into which his master may go. The *settlement of a servant* does not at all depend on the *settlement of the master.* *Rex v. St. Peter's, Oxford, T.* 8 *Geo.* 1. *Cases in K. B. concerning Poor,* 199. *Foley's Poor Laws,* 193. 1 *Strange's Reports,* 422. 2 *Bott,* 274. 1 *Nolan's Poor Laws,* 424, 3*d edit.*

So a groom going from place to place to take care of horses, is settled in the last place.

1083. So a person hired as a groom to running horses, and goes from place to place to take care of them, will gain a settlement by residence *at the last place,* though his master had neither house nor estate there. *Rex v. East Ilsley, M.* 12 *Geo.* 3. *Burrows' Settlement Cases,* 722. 2 *Bott,* 284. 1 *Nolan's Poor Laws,* 424, 3*d edit.*

Residence of more than forty days at a watering place.

1084. Residence of more than *forty days* at a *watering* place, with a master who went there for the *season,* will not gain a settlement. *Alton v. Elvethem, E.* 30 *Geo.* 2. 2 *Bott,* 280. 1 *Nolan's Poor Laws,* 425, 3*rd edit.* (*See Rex v. St. Peter's, Oxford, pl.* 1082.) *But see Rex v. Bath Easton, pl.* 1086.

Hiring in an extra parochial place.

1085. Where the hiring is in an extra parochial place, a settlement may be gained by a servant under it in a parish or township; and if the master and servant are at a *watering place* during the *last* forty days, *a settlement will be gained there.* *Rex v. St. Andrew's Holborn, H.* 24 *Geo.* 3. 2 *Bott,* 289. 1 *Nolan's Poor Laws,* 405. 464. 467. 474.

Yearly hired servant resides with his master at a watering place.

1086. A residence of *a yearly* servant with his master at a watering place for forty days *will confer a settlement.* *Rex v. Bath Easton, E.* 14 *Geo.* 3. *Burrows' Settlement Cases,* 774. 2 *Bott,* 285. 1 *Nolan's Poor Laws,* 469, (*see pl.* 1084).

1087. A servant need not lodge in the master's house; service and residence in the same place will *gain a settlement.* *Rex v. Whitechapel, E.* 11 *Geo.* 1. 2 *Sess. Cases,* 114. *Foley's Poor Laws,* 146. 2 *Bott,* 275. 1 *Nolan's Poor Laws,* 468.

Servant marrying during his service, and lodges with

1088. A servant during his service in the parish of *A.* marries, and then lodges with his wife for the *last*

forty days in the parish of B *gains a settlement in the parish where he lodges,* although the master did not know where he lodged. *Rex v. Hedsor, T.* 18 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 51. 2 *Bott,* 287. 1 *Nolan's Poor Laws,* 468. *Rex v. Nympsfield, H.* 21 *Geo.* 3. *Caldecott,* 107. 2 *Bott,* 336. 1 *Nolan,* 471. his wife for the last forty days in another parish.

1089. A yearly servant is settled in the parish where he had lived with, and served his master for ten months, and not in the parish to which he had been sent as a lunatic, and where he had lived for the last two months of his *year. Rex v. Sutton, T.* 34 *Geo.* 3. 5 *Term Reports,* 657. 2 *Bott,* 336. 1 *Nolan's Poor Laws,* 471. A yearly servant is settled in a parish where he is hired.

Statutes relating to Settlement of the Poor.

1090. The churchwardens and overseers, or the greater part of them, by the assent of *two justices,* may bind any poor children whose parents they shall judge not able to maintain them, to be apprentices, till such *man child* shall come to the age of *four-and-twenty* years, and such *woman child* till the age of *one-and-twenty years,* or the time of her marriage. 43 *Eliz. c.* 2. *s.* 5. (*see p.* 1. *pl.* 1. *ante.*) Parish officers may bind poor children out apprentices.

1091. Indentures which have been heretofore signed by two persons only, acting as churchwardens and overseers, and all such indentures as shall be hereafter so signed, shall be good, valid, and effectual, as if they had been executed and signed by distinct persons as churchwardens, and distinct persons as overseers, according to the 43 of *Eliz. c.* 2. above-mentioned. 51 *Geo.* 3. *c.* 80, *s.* 1. Indentures signed by two churchwardens only, valid.

1092. But not to affect any prior decision in any court of law, respecting the binding of a parish apprentice, or the settlement of the poor, before the passing of this act. *Ibid. s.* 2. But not to affect the binding of parish apprentice.

1093. [This act (51 *Geo. 3. c.* 80.) was held to extend to parishes where there are three officers only, one of whom acts as churchwarden as well as overseer, and an indenture, signed by two parish officers, one of whom acted in a double capacity,

was held valid. *Rex v. St. Margaret's, Leicester, M.* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports,* 200. 1 *Nolan's Poor Laws,* 503, 504.]

Indentures valid, although churchwardens, &c. not sworn in.

1094. All *indentures* for *binding poor apprentices,* which have been heretofore signed and executed, or which shall hereafter be signed and executed by a person or persons who, at the time of his or their signing and executing, acted as churchwarden or churchwardens, chapelwarden or chapelwardens, shall be good, valid, and effectual, although the churchwardens, &c. had not been actually sworn in. 54 *Geo.* 3. *c.* 107. *s.* 1.

Indentures valid, if executed by the overseers of the poor of any township within a parish, &c.

1095. All such indentures heretofore signed and executed, or hereafter to be signed and executed, by *overseers of the poor of any township, &c. and the churchwarden* or churchwardens, chapelwarden or chapelwardens, acting for, or appointed in respect of such *township,* &c. or the major part of them, shall be good, valid, and effectual, as if the same had been signed and executed by such overseers and the churchwardens of the *parish* in which such township is situated, or the major part of them. *Ibid. s.* 2.

Not to affect settlements.

1096. Not to alter or *affect the settlement* of any person, for whose removal any order of justices shall have been duly made, previous to the passing of this act. *Ibid. s.* 3.

Indentures and certificates of apprentices which are executed by one churchwarden, &c. valid.

1097. After the 28th of May 1821, *all indentures for the binding of parish apprentices,* and *certificates of the settlement or settlements of poor persons,* which have been, previous to the passing of this act, executed or signed by one churchwarden or chapelwarden, acting, or purporting to act, in the capacity of churchwarden or churchwardens, chapelwarden or chapelwardens, for any parish, township, &c. in *England,* for which two churchwardens, &c. had formerly been appointed, are good and effectual, as if such indentures and certificates had been executed by one or more churchwarden or chapelwarden, churchwardens or chapelwardens, legally appointed. 1 *and* 2 *Geo.* 4. *c.* 32. (*See Rex v. Catesby.* 2 *Barnewall and Creswell's Reports,* 814. 1 *Nolan's Poor Laws,* 505.)

1098. Not to affect decisions already made. *Ibid. s.* 2.

1099. "If any person shall be bound an apprentice by indenture, and inhabit in any town or parish, such binding and inhabitation shall be adjudged a good settlement." 3 *W. c.* 11. *s.* 8. Apprenticeship settlement.

1100. Any person bound an apprentice by indenture to a person coming into, or residing in, a parish, township, or place under certificate, and not afterwards gaining a legal settlement in such parish, &c. the apprentice shall not gain a settlement in such parish, &c. under the apprenticeship, indenture, or binding; but he shall be settled in such parish, &c. as if he had not been bound apprentice to such person. 12 *Anne, st.* 1. *c.* 18. If bound by indenture to a person residing under certificate.

1101. "No certificated person who shall come into a parish by certificate shall be adjudged by any act whatsoever to have procured a legal settlement in such parish, unless he or they shall really and *bonâ fide* take a lease of a tenement of the value of 10*l.* or shall execute some annual office in such parish, being legally placed in such office." 9 *and* 10 *W. c.* 11. A certificated person has no legal settlement, unless he takes a tenement of 10*l.* a year, or executes some parish office.

1102. The premium, directly or indirectly given with the apprentice, must be inserted and written in words at length * in the indenture, which must bear date on the day of signing, sealing, and executing. 8 *Anne, c.* 9. *s.* 35. Premium to be in words at length in the indenture.

1103. Indentures of apprentices placed out at the *public charge* of a parish or township, or by or out of any *public charity*, are exempt from duty in respect of money paid with such apprentices. *Ibid. s.* 40. 55 *Geo.* 3. *c.* 184. Indentures of apprentices, put out at the public charge, to be free of stamp duty.

1104. And also all agreements of such poor apprentices, where no valuable consideration is given to the new master other than what shall be given by any *parish*, &c. or by a *public charity*. *Ibid.* And also all agreements for that purpose.

1105. Power is given by statute 13 *and* 14 *Car.* 2. to remove persons *within forty days after* they come Persons not removed within forty days.

* See *Rex v. Oadby, p.* 282. *pl.* 1140. *post.*

to reside in a parish; but there being no power to remove them *after forty days*, they become *unremoveable*.

Forty days' residence restrained to be after notice in writing.

1106. The forty days' residence is restrained by the statutes of *Jac.* 2. *and Will.* 3. to be *after notice* in writing; but the latter clause of the statute of *Will.* 3. takes off that restriction in respect to apprentices, because such would be of no avail; for the justices have no power, on the complaint of the overseers, to remove an apprentice from his master. The justices can only make the indenture void on the complaint of the master or the apprentice: and continuing *forty days unremoveable* without notice, is the same as continuing *forty days removeable*, but not removed after notice; and therefore the party gains a settlement.

An apprentice may gain as many settlements as there are spaces of forty days in the term of his apprenticeship.

1107. An apprentice may gain as many settlements as there are spaces of forty days in the term of his apprenticeship; and where the apprentice serves the *last* forty days, there is his *legal* settlement. He may gain a settlement long before his master shall gain one, as where the master's settlement arises from executing an *annual office*—or he may gain a settlement whilst the master gains none, as when he resides upon a tenement under 10*l.* a year, and consequently the master may be removed when the apprentice cannot; in such cases, the master must apply to the justices to *compel* the apprentice to go along with him.

As to the Instrument.

The binding must be by deed.

1108. The binding must be by deed in writing, *indented* and sealed, and delivered by the parties. 2 *Black. Com.* 3 *W. and M. c.* 11. *s.* 5. *Rex v. Mellingham*, 2 *Bott*, 363. 1 *Sess. Cases*, 330.

If the deed is not indented but duly stamped.

1109. But a person bound by deed or writing, &c. *not indented*, being first duly stamped and residing *forty days*, is entitled to a settlement. 31 *Geo.* 2. *c.* 11. *s.* 1.

The want of indenting is cured by the act.

1110. The act does no more than cure the want

of indenting; the binding must be by deed, in writing duly stamped, and sealed and delivered. *Rex v. Mawman, Burrows' Settlement Cases,* 290; *and Rex v. Stratton,* 272. 1 *Nolan's Poor Laws,* 450.

As to the Parties.

An infant may bind himself.

1111. An infant of *fourteen* years of age may bind himself and gain a settlement: and he may make an indenture *for his own benefit. Newbury v. St. Mary's in Reading, H.* 3 *Geo.* 2. *Foley's Poor Laws,* 154. *Andrews' Reports,* 373. 2 *Bott,* 363. (*See pl.* 1131. *p.* 280.)

An infant of eight years old may be bound.

1112. An infant of *eight* years of age may be bound. *Rex v. Saltern, E.* 24 *Geo.* 3. 1 *Bott,* 613. 1 *Nolan's Poor Laws,* 498. 507. *Rex v. St. Petrox in Dartmouth, and see Rex v. Arundel, pl.* 1140. *post. and* 56 *Geo.* 3. *c.* 139 *.

And the binding may be to an infant.

1113. The binding may be to *an infant master. Rex v. St. Petrox in Dartmouth, H.* 31 *Geo.* 3. 4 *Term Reports,* 196. 2 *Bott,* 377. 1 *Nolan's Poor Laws,* 498.

The condition of the master not material.

1114. The master's condition is *immaterial,* unless fraudulent. *Rex v. St. Margaret's, Lincoln. Burrows' Settlement Cases,* 728. 1 *Bott,* 610. 1 *Nolan's Poor Laws,* 497, *4th edit.* 2 *Nolan,* 310, *3d edit.*

If bound to a master who has no right to take an apprentice.

1115. If an apprentice is bound to a master who has no right to take an apprentice, a settlement will be gained *by service* under such an indenture. *Anonymous, T.* 9 *Anne.*

The apprentice gains a settlement in the parish where he serves.

1116. An apprentice will gain a settlement in the parish where he serves, although his master has no settlement there. *St. Bride's v. St. Saviour's, H.* 4 *Anne,* 2 *Salkeld's Reports,* 533.

If bound without his consent.

1117. A servant who is bound an apprentice by the act of two other parties, without his own concurrence, can gain *no settlement* by a service under

---

* "An act to regulate the binding of parish apprentices."

such binding. *Rex v. Chesterfield, T.* 9 *W.* 3. 1 *Bott*, 527. 2 *Salkeld's Reports*, 479. 1 *Nolan's Poor Laws*, 497.

The apprentice must be a party to the indenture.

1118. The apprentice must be a party to the deed, though he is an infant; and the indenture is void unless the pauper assented to the contract. *Rex v. Cromford, M.* 47 *Geo.* 3. 8 *East*, 25. 1 *Nolan's Poor Laws*, 498. *Rex v. Ripen, H.* 48 *Geo.* 3. 9 *East*, 295. *Bott's Poor Laws, continued to* 1814. 1 *Nolan*, 498.

A father cannot bind his infant son without his consent.

1119. A father has at the common law no authority to bind his *infant son* apprentice without his consent; and where an indenture of apprenticeship is executed by the master and the father of the apprentice, *but not by the apprentice*, it was held to be *invalid*, and *no settlement* gained under it. *Rex v. Inhabitants of Arnesby, E.* 1 *Geo.* 4. 3 *Barnewall and Alderson's K. B. Reports*, 584. *Rex v. Badby*, 1 *Bott*, 549.

Indenture not executed by the master.

1120. An indenture *not executed* by the master was held to be sufficient. *Rex v. St. Peter's on the Hill, H.* 14 *Geo.* 3. 2 *Bott*, 367. 1 *Nolan's Poor Laws*, 498, 499. *Rex v. Fleet, T.* 17 *Geo.* 3. 2 *Bott*, 371. 1 *Nolan*, 500.

Of the Term.

Binding for less than seven years.

1121. A binding for a less term than seven years does not render the indenture *void*, but *voidable only* by the parties. *St. Nicholas v. St. Peter's, both in Ipswich, M.* 10 *Geo.* 2. *Burrows' Settlement Cases*, 91. 2 *Bott*, 363. 1 *Nolan's Poor Laws*, 500. *See Rex v. Evered, T.* 17 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 26. 1 *Bott*, 534. 1 *Nolan*, 500. *Grey v. Cookson*, 6 *East*, 27. *Rex v. Chadbury, E.* 9 *Geo.* 2. 1 *Bott*, 600. 1 *Nolan*, 501.

Binding till twenty-one years of age.

1122. A binding of a parish apprentice till twenty-one does not render the binding *void*, but *voidable* as above; but neither void nor voidable by the parish as to gaining a settlement. *Rex v. St. Peter's*, 19 *Geo.* 2. *Burrows' Settlement Cases*, 248. 2 *Bott*, 368. 1 *Nolan's Poor Laws*, 501.

1123. An unlimited binding of a parish apprentice is not *void*, but *voidable*. *Rex v. Woolstanton, H.* 12 *Geo.* 2. 1 *Bott*, 606. 1 *Nolan's Poor Laws*, 500, 501. An unlimited binding.

The Binding and Allowances by Justices.

1124. The indenture of a parish apprentice is not *void* for want of signing by the apprentice. *Rex v. St. Nicholas in Nottingham, M.* 29 *Geo.* 3. 2 *Term Reports*, 726. 2 *Bott*, 373. 1 *Nolan's Poor Laws*, 500. (*See pl.* 1119.) The indenture of parish apprentices not signed by the apprentice.

1125. An indenture of apprenticeship, executed only by the overseer of a township, which has *no* churchwardens or chapelwardens, and maintaining its own poor separately, is valid; although neither of the churchwardens of the parish at large, within which the township is situated, join in the execution. *Rex v. Nantwich, M.* 53 *Geo.* 3. 16 *East*, 228. *Bott's Poor Laws, continued to* 1814, *p.* 15. 1 *Nolan's Poor Laws*, 505. The indenture executed only by the overseer of a township, having no churchwarden.

1126. An indenture binding out a poor apprentice by one churchwarden (where by custom there was but *one*) and *one* overseer, was held to be good within the *5th sect. of* 43 *Eliz. c.* 2. which requires it to be executed by the *greater* part of the churchwardens and overseers. *Rex v. Inhabitants of Earl Shilton*, 1 *Barnewall and Alderson's K. B. Reports*, 275. *See* 1 *and* 2 *Geo.* 4. *c.* 32. A binding by one churchwarden.

1127. An indenture reciting certain trustees of a charity to be parties, and the consideration to be 20*l.*, was held good, though not executed by the trustees, and though the whole of the consideration was not paid to the master. *Rex v. Quainton, H.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports*, 338. *Bott's Poor Laws, continued to* 1814, *p.* 16. 1 *Nolan's Poor Laws*, 497. *See Rex v. Keynshaw*, 5 *East*, 309. Binding trustees of a charity.

1128. The justices *must sign* the allowance, *no other mode* of allowance is good; and it being a *judicial act*, the signing must be *in the presence of each other*. *Rex v. John Saltern, E.* 24 *Geo.* 3. 1 *Bott*, 613. 1 *Nolan's Poor Laws*, 507. *Rex v.* The allowance must be signed by the justices.

Hamstall Ridware, T. 29 *Geo.* 3. 3 *Term Reports,* 380. 1 *Bott,* 620. 1 *Nolan,* 507.

As to the allowance by one justice.

1129. But *one* justice may now sign alone, and afterwards be present at the signing by the other. *Rex v. Winwick, H.* 40 *Geo.* 3. 8 *Term Reports,* 455. 1 *Bott,* 625. 1 *Nolan's Poor Laws,* 507.

If the justices refuse their consent.

1130. Where the justices refuse their consent to the binding of a parish apprentice, and the apprentice is afterwards bound with his own and his mother's consent, with the parish money, the binding was found fraudulent by the Q. S. But it was held to be *a binding independent of the statute, and a settlement gained. Rex v. Kilby, E.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 501. 1 *Nolan's Poor Laws,* 502. 508. (*See the* 56 *Geo.* 3. *c.* 139. *s.* 11. *as to indentures being invalid, unless approved by two justices*).

An infant may bind himself by indenture.

1131. An infant may bind himself apprentice by indenture; *because it is for his benefit* (*see pl.* 1111. *p.* 277); and though he is a pauper in the parish workhouse at the time of binding, and the parish officer pay the premium, yet it is not necessary that they should sign the indenture, or that they should assent thereto, if the apprentice is not *a parish* apprentice within the meaning of the act of 43 *of Eliz. c.* 2. *Rex v. Arundel, T.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 257. 1 *Nolan's Poor Laws,* 499. 502. 508.

The order of justices must be referred to in the indenture.

1132. The statute of 56 *Geo.* 3. *c.* 139. *s.* 1. requiring that the order of justices for the binding out of parish apprentices shall be referred to in the indenture by the date thereof, is compulsory; and therefore an indenture in which the date of the order is omitted *is void,* and *no settlement* gained by serving under it. *Rex v. Inhabitants of Bawbergh, T.* 4 *Geo.* 4. 2 *Barnewall and Creswell's K. B. Reports,* 222. 1 *Nolan's Poor Laws,* 512.

A pauper bound by order of two county justices, bound to a master in a parish within a borough in the same county.

1133. A pauper settled in B, in the county of C, was, pursuant to an order of two justices of the *county,* bound apprentice by the churchwardens and overseers of the parish of B, to a master in the parish of D, in a *borough* in the same county, but having *justices who had an exclusive jurisdiction therein.*

The indenture was allowed by the two county justices, *but no notice was given to the overseers of the poor of the parish of D, in the borough,* of the intention *to bind such apprentice;* nor did they attend before the county justices who allowed the indenture, and admit such notice. Held, that the indenture was *void,* for want of such notice, and *no settlement* gained by serving under the indenture. *Rex v. Inhabitants of Newark-upon-Trent, T.* 1824. 3 *Barnewall and Creswell's K. B. Reports,* 59.

Of the Stamp.

The indenture must be stamped.

1134. An indenture of apprenticeship, executed before the passing of 44 *Geo.* 2. *c.* 98. must be stamped with the premium stamp, within the time prescribed by the 8 *Anne, c.* 9; and where such an indenture was stamped at the time of its being produced in evidence, with the stamp required by 55 *Geo.* 3. *c.* 138, but not within the time prescribed by the 8 *Anne, c.* 9. It was held that the indenture was wholly *void,* and that the pauper gained *no settlement* by service under it. *Rex v. Inhabitants of Chipping Norton, H.* 2 *Geo.* 4. 5 *Barnewall and Alderson's K. B. Reports,* 412. *See Stokes v. Twicken, C. P.* 1818. 8 *Taunton's Reports,* 492.

The Consideration and Duty thereon.

The duty of 6d. in the pound is not paid.

1135. If the duty of 6*d.* in the pound, according to the 8 *Anne, c.* 9. *s.* 39. is not paid, the indenture is *void* and *no settlement* gained. *Cuerdon v. Leyland, H.* 4 *Geo.* 2. 2 *Strange's Reports,* 903. 2 *Sessions Cases,* 134. 1 *Bott,* 545. 1 *Nolan's Poor Laws,* 461, 3*d edit.*

Where no duty is payable.

1136. No duty is payable where the consideration is only 6*d. Baxter v. Faulam, E.* 19 *Geo.* 2. 1 *Wilson's Reports,* 129. 1 *Bott,* 549. 1 *Nolan's Poor Laws,* 461, 3*d edit. Rex v. Yarmouth, H.* 28 *Geo.* 2. *Burrows' Settlement Cases,* 379. 1 *Nolan's Poor Laws,* 461, 3*d edit.*

Public annual

1137. A public *annual* charitable subscription is

charitable subscription.

within the meaning of the words of the act, "*Public charity*" (55 *Geo.* 3. *c.* 184). It is not necessary that it should be a *permanent* charity. *Rex v. St. Matthew's, Bethnal Green, H.* 7 *Geo.* 3. *Burrows' Settlement Cases,* 574. 1 *Bott,* 641. 1 *Nolan's Poor Laws,* 467, 3*d edit.*

If a person is bound for a consideration bequeathed for that purpose.

1138. And so where a person is bound out for a consideration, bequeathed for that purpose by *will,* it is within the meaning of the words, "*public charity.*" *Rex v. Clifton-upon-Dunsmore, H.* 12 *Geo.* 3. *Burrows' Settlement Cases,* 697. 1 *Bott,* 641. 1 *Nolan's Poor Laws,* 468, 3*d edit.*

When money is given by the grandfather to the master to clothe the apprentice.

1139. Where money is given by the grandfather of the boy to the master to clothe him, before he enters upon his apprenticeship, it is not such a consideration as the statute requires to be set out in the indenture. *Rex v. North Owram, E.* 13 *Geo.* 2. *Burrows' Settlement Cases,* 145. 1 *Bott,* 548. 1 *Nolan's Poor Laws,* 462, 3*d edit.*

Money given by parish officers not liable to duty.

1140. Money given by parish officers as a consideration for an apprentice, is not liable to duty imposed by 8 *Anne, c.* 9. *s.* 35., even though the binding is voluntary, and though the party receiving the apprentice is not privy to the gift; such money being raised at the common and *public charge* of the parish. *Rex v. St. Petrox, in Dartmouth, H.* 31 *Geo.* 3. 4 *Term Reports,* 196. 1 *Bott,* 554. 1 *Nolan's Poor Laws,* 498.

Money given by parish officers need not be set out in the indenture.

1141. Money given by parish officers as a premium, upon binding out a poor apprentice, need not be set out in the indenture in words at length, such indenture being exempt from duty by 8 *Anne, c.* 9. *s.* 40.; the insertion of the premium being required only to ascertain the amount of duty. *Rex v. Oadby, E.* 58 *Geo.* 3. 1 *Barnewall and Alderson's K. B. Reports,* 477. (*See p.* 275. *pl.* 1102.)

The father agreeing to provide meat, &c. and the master be allowed weekly wages.

1142. The father covenanting to find and provide "*sufficient meat, drink, apparel* of all kinds, *physic, surgery, and lodging, and all other necessaries* for his son during the term of his apprenticeship, and the master *was to allow* him or them 4*s.* per week during the term," no additional stamp-duty is neces-

sary. *Rex v. Portsea, T.* 16 *Geo.* 3. 1 *Bott,* 551. *Burrows' Settlement Cases,* 834. 1 *Nolan's Poor Laws,* 463, 3*d edit.*

An apprentice agreeing to provide himself with meat, &c.

1143. An apprentice covenanting to provide for himself "*meat, drink, washing, lodging, apparel, and physic, during the term,* and *his master covenanting to pay him* 5*s. per week, for the three first years,* 6*s. per week for the fourth and fifth years, and* 7*s. per week for the sixth and seventh years,*" it must appear that the wages were not an equivalent, if it is intended to invalidate the indenture for want of a proper stamp. *Rex v. Walton in Le Dale, H.* 30 *Geo.* 3. 3 *Term Reports,* 515. 1 *Bott,* 553. 1 *Nolan's Poor Laws,* 463, 3*d edit.*

Agreeing to maintain an apprentice on a Sunday.

1144. Where the friends of an apprentice covenant to maintain him on every *Sunday,* and to clothe him, this is not such a benefit as is liable to a stamp-duty. *Rex v. Leighton, T.* 32 *Geo.* 3. 4 *Term Reports,* 732. 1 *Bott,* 556. 1 *Nolan's Poor Laws,* 466. 506, 3*d edit.*

Master reserving part of the earnings of his apprentice.

1145. The reservation to the master of part of the earnings of the apprentice is *not a consideration* within the meaning of the statute, and no duty was paid for any consideration reserved to the master, because by law he was entitled to the whole earnings; and therefore the pauper gained a settlement under the indenture. *Rex v. Wantage, T.* 41 *Geo.* 3. 1 *East,* 601. 1 *Bott,* 559. 1 *Nolan's Poor Laws,* 466, 3*d edit.*

Where the stamp duty is on the sum agreed on, but a less sum is paid.

1146. If the stamp-duty is on a sum *contracted* for, which sum is *inserted* in the indenture, but a *less* sum is *actually paid* by the apprentice, still the indenture is good, and service under it will *gain a settlement. Rex v. Keynsham, T.* 44 *Geo.* 3. 5 *East,* 309. 1 *Bott,* 560. 1 *Nolan's Poor Laws,* 461, 3*d edit.*

Apprentice agreeing to allow his master 2*s.* a week out of his wages.

1147. A deed of apprenticeship containing a covenant, by which the apprentice is to allow his master 2*s.* a week, and he is to have wages and provide for himself during the term, does not require the additional stamp imposed by 44 *Geo.* 3. c. 98. *Rex v. The Township of Bradford, H.* 53 *Geo.* 3.

4 *Maule and Selwyn's Reports*, 151. *Bott's Poor Laws continued to* 1814, *p.* 8. 1 *Nolan's Poor Laws*, 466. 473, *3d edit.*

Of the Contract.

Intention to create a settlement.

1148. Where the intention is to create an apprenticeship, and the indenture is *void*, a settlement is gained by way of service, and not by apprenticeship. (*See pl.* 1151, *post*). *Salford v. Storeford, M.* 5 *Geo.* 3. 2 *Barnardiston's Reports*, 39. 2 *Bott*, 363. 1 *Nolan's Poor Laws*, 457. *See Cuerdon v. Leyland, pl.* 1135, *p.* 281.

When the indentures are not executed.

1149. Where a person is taken as an apprentice, and the indentures were never executed, it cannot be converted into a hiring and service. *Rex v. Whitchurch Canonicorum, T.* 5 *Geo.* 3. *Burrows' Sessions Cases*, 450. 2 *Bott*, 368. 1 *Nolan's Poor Laws*, 450. 476, *3d edit. Rex v. St. Mary Kalendar, in Winchester.*

If the agreement is not stamped.

1150. Where an agreement is made in writing, reciting, "*Whereas the boy, with the consent of his father, is to be bound* apprentice *to him for seven years*," but not stamped, no settlement is gained. *Rex v. All Saints, in Hereford, H.* 10 *Geo.* 3. *Burrows' Settlement Cases*, 656. 2 *Bott*, 370. 1 *Nolan's Poor Laws*, 476, *3d edit.*

Serving as an apprentice without being indented.

1151. If a person serves *seven* years as an apprentice, and there is no indenture, he *cannot* gain a settlement *either* as an apprentice or as *a yearly servant.* (*See pl.* 1148, *ante*). *Rex v. Margram, H.* 38 *Geo.* 3. 5 *Term Reports*, 153. 2 *Bott*, 378. 1 *Nolan's Poor Laws*, 450, *3d edit.*

Services of an apprentice not a hiring.

1152. Servitude as an apprentice *cannot* be converted into a *service* under a hiring. *Ibid.*

Where there is an agreement to teach a trade.

1153. Where there is an agreement in writing to teach a trade for certain considerations, and the person is to do *no other* work, *it is not a contract of apprenticeship, but a hiring and service. Rex v. Little Bolton, M.* 24 *Geo.* 3. *Caldecott's Reports of Set-*

tlement Cases, 367. 2 *Bott*, 222. 1 *Nolan's Poor Laws*, 475. 482, 3*d edit.*

Where there is an agreement on unstamped paper.

1154. Where the *intention* is to create an apprenticeship, but to save the expense of indentures and duty, the parties agree to sign an agreement *on unstamped paper*, and thereby to defraud the revenue, no settlement can be gained by service under it. *Rex v. Highman, H.* 25 *Geo.* 3. 2 *Bott*, 371. 1 *Nolan's Poor Laws*, 458. 477, 3*d edit.*

Where there is a verbal agreement to serve, and have half the earnings.

1155. A person binding himself by verbal agreement to serve another, on condition of being taught a trade, and to have half of what he earned, and to find himself in every thing, it is *not* an apprenticeship, but service under the agreement, which will give a settlement by hiring and service. *Rex v. Eccleston, E.* 42 *Geo.* 3. 2 *East*, 298. 2 *Bott*, 230. 1 *Nolan's Poor Laws*, 475, 3*d edit.*

What is a defective contract.

1156. Where the father agrees with a person to take his son for six years, to teach him a trade, and he agreed to allow the master 9*s.* a week for the first three years for teaching his son, and for board and lodging. It was held to be a defective contract of apprenticeship, and the son could not gain a settlement under it, *the contract having for its object the instruction of the son, and nothing else. Rex v. Mountsorrell*, 2 *Maule and Selwyn's Reports*, 420.

Settlement of Apprentice by Residence.

The settlement of the apprentice does not depend on the settlement of the master.

1157. The settlement of an apprentice does not depend on the settlement of the master; a master settled in the parish of A, taking lodgings in the parish of B, and continuing there above *forty* days with the apprentice who serves him there, the apprentice gains a settlement in the parish of B. *St. Bride's v. St. Saviour's, H.* 4 *Anne.* 2 *Salkeld's Reports*, 533.

Binding and serving will not make a settlement.

1158. Binding and serving will not make a settlement; but the settlement must be by inhabiting, which cannot be but where the party lodges. *St. John Baptist v. St. James's, Bishop Cannings, M.*

11 *Geo.* 1. 2 *Lord Raymond's Reports,* 1371. 1 *Strange's Reports,* 594. 2 *Bott,* 387.

Working in one parish, the master lying in another, and the apprentice in a third parish.

1159. An apprentice bound to a cobbler who has his stall in the parish of A, but lying in the parish of B, and the apprentice lying in the parish of C; it was held that the apprentice gained *no* settlement in *any* of the *three* parishes, for the stall is not sufficient to give him one, the master lying in another parish. *Rex v. St. Olave's Jury, E.* 3 *Geo.* 1. *Strange's Reports,* 57.

1160. "*This case differs from other cases with respect to apprentices and servants; by analogy it appears that the cobbler's apprentice gained a settlement in the parish where he lodged.*" *Ibid.*

Working and dieting in one parish and lodging in another.

1161. An apprentice working and dieting with his master in *one* parish in the *day* time, but lodging at nights in another parish, gains a settlement where he *lodged. Rex v. Castleton, M.* 7 *Geo.* 3. *Burrows' Settlement Cases,* 569. 2 *Bott,* 390. 1 *Nolan's Poor Laws,* 525, *3rd edit.*

Where an apprentice resides forty days on account of illness, and no service is performed.

1162. An apprentice residing *forty* days in a parish will gain a settlement, though no service be performed, and illness is the occasion of the residence, provided the master resides in the same parish; the performance of *actual service* is not material: it is the *residence,* and the *inhabitancy* of the apprentice for *forty days* that gains the settlement. *Rex v. Charles, T.* 12 *Geo.* 3. *Burrows' Settlement Cases,* 706. 2 *Bott,* 413. 1 *Nolan's Poor Laws,* 506. 524. 526. 527, *3d edit.*

A residence merely on account of illness

1163. But a residence *merely* on account of illness, where no service is performed, will *not* gain a settlement; the residence must be *referable* in some way to the apprenticeship. *Rex v. Barneby in the Marsh, E.* 46 *Geo.* 3. 7 *East,* 381. 1 *Nolan's Poor Laws,* 526, *3d edit. Rex v. Titchfield, M.* 4. *Geo.* 3. *Burrows' Settlement Cases,* 511. 2 *Bott,* 397. 1 *Nolan,* 501. 526, *3d edit.*

An apprentice sleeping in another parish, and occasionally employed by his master.

1164. If an apprentice goes into and *sleeps* in another parish on account of *illness,* but whilst he is there is occasionally employed by his master, though

not in his trade, a settlement is gained by *forty* days' residence in that parish. *Rex v. Stratford-upon-Avon, E.* 49 *Geo.* 3. 11 *East,* 176. *Bott, continued to* 1814, 159. 1 *Nolan's Poor Laws,* 527, 3*d edit.*

Apprentice sleeping in another parish.

1165. An apprentice who lived and worked with his master in the parish of *T,* went home to his father's house in the parish of *R* every *Saturday,* and slept there on *Saturday* and *Sunday* nights (with his master's consent), and returned to work on *Monday* morning. The apprentice having returned and worked as usual on a *Monday,* left his master in the evening, and never returned. It was held that the sleeping in *R,* being merely by way of indulgence, and not for the purposes of the apprenticeship, was not sufficient to confer a settlement. *Rex v. Ilkeston,* 26 *Geo.* 4. 4 *Barnewall and Creswell's Reports,* 64.

A parish apprentice and his master, both on the staff of Local Militia, residing in the parish where the head-quarters are fixed.

1166. A parish apprentice and his master, being both on the permanent staff of the *Local Militia,* of which the head-quarters were at B, in consequence of which the master removed from A, the apprentice and master resided together in B, and he continued to serve his master in the parish at B for *forty* days. It was held by the Court of K. B. that this residence was sufficient, and that the apprentice acquired a settlement in B, notwithstanding both the apprentice and master were under the control of their superior officers during the whole time. *Rex v. Chelmsford,* 1 *Geo.* 4. 3 *Barnewall and Alderson's Reports,* 411.

Residence of Seafaring Persons.

An apprentice to the sea lying on board the ship, but serving on shore.

1167. An apprentice to a seafaring man, serving for a quarter of a year in the day-time, on land, in the parish of A, but lying every night on board of a ship in B, gains *no* settlement where the service was performed, but where he inhabited, that is, *slept. St. Mary Colechurch v. Radcliffe, T.* 3 *Geo.* 1. 1 *Strange's Reports,* 60. *Cases in the King's Bench concerning Poor,* 105. *Foley's Poor Laws,* 159. 2 *Bott,* 386. 1 *Nolan's Poor Laws,* 525, 3*d edit.*

An apprentice lodging, boarding, and serving his master on board a ship.

1168. An apprentice to A. B., owner of a Bridport ship, *to learn navigation and the art of a sailor*, goes immediately on board the ship, and *there* serves for seven years. The ship being, during all that time, employed in the coasting trade, from Bridport harbour to other ports, and Bridport was considered as *the ship's proper home;* during the seven years, the ship was often in the harbour, but never for more than a month at a time. On 7th Dec. 1760, she arrived there, and *continued there* till 22d Jan. 1761, *being more than forty days*, the apprentice, during that time, lodging, boarding, and serving his master on board the ship, and the ship was never in any other port forty days after that term. On 11th March, 1761, the ship returned to Bridport harbour, and there remained till after the 28th of that month, on which day the apprenticeship expired, and during that time the apprentice lodged, boarded, and served on board the ship as before. Bridport harbour is a basin within the parish of *Burton Bradstock*, and communicates with the sea by a cut made from it to the sea, through which ships enter. It was held, that *lying in a parish* is the same, whether on board a ship or on land, and a settlement is gained in this case; but a vessel, *in transitu*, accidentally stopping at a port to repair a leak, or on any *casual occasion*, would *not* give a settlement to the sailors on board. *Rex v. Burton Bradstock, E.* 5 *Geo.* 3. *Burrows' Settlement Cases*, 531. 2 *Bott*, 389. 1 *Nolan's Poor Laws*, 525, 3*d edit.*

Apprentice serving forty days in the port where he is sent by his master with coals.

1169. An apprentice to A. B., of Topsham, shipowner and coal-merchant, served three years, during which he made several voyages, and returned to Topsham, residing there in the intervals between the voyages, sometimes for two months. His last voyage was on board the R. of Topsham, which first sailed to *Shields*, and thence to *Poole*, with a cargo of coals; the apprentice remained at *Poole* upwards of forty days, and slept every night on board the ship as it lay alongside the quay. Whilst he was at *Poole*, his master became bankrupt, and had left *Topsham;* he

applied to the agent of the vessel for money to enable him to return to *Topsham*, who supplied him for that purpose, from whence he was removed back to *Poole*; on appeal, the order of removal was quashed by the sessions, on the ground that the residence of the apprentice at *Poole* was only *accidental*. The order of sessions was quashed by the court of *King's Bench*, who agreed the residence at *Poole* was not casual, but that the apprentice was there in the *actual employ* of his master in his trade, which in its nature required a shifting residence, and that the apprentice might gain a settlement by serving his master in another parish to which his master's business called him. *Rex v. Topsham, T.* 46 *Geo.* 3. 7 *East*, 466. 1 *Bott*, 722. 1 *Nolan's Poor Laws*, 525. 528 (*see previous case, pl.* 1167).

Where an apprentice to a mariner, not having immediate occasion for his service, goes back to school and resides forty days there.

1170. An apprentice to a mariner, who having no immediate occasion for his service, the vessel being in dock, going back to school and residing *forty days* there, is not a residence under the indentures, and the apprentice cannot gain a settlement. *Rex v. St. Mary Bredin, Canterbury, H.* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports*, 382.

An apprentice to a mariner, with an agreement as to the service in the winter season.

1171. An apprentice to a mariner by indenture, in which it was stipulated that the master should provide meat, drink, &c. during the term, *except in the winter season, when the ship to which he should belong should be laid by unrigged, during which time it was agreed that the apprentice should maintain himself or be maintained by his friends*, the master paying a compensation. Under the above stipulation, where an apprentice, during the winter season, resides with his parents for more than *forty days, not doing any work for his master* during the time, it is *not* such a *residence* under the indentures as will confer a settlement. *Rex v. Inhabitants of Bretton, H.* 1 *Geo.* 4. 4 *Barnewall and Alderson's Reports*, 84.

An apprentice quitting the parish in which his master lives, by his desire, returns and sleeps in his master's parish without his knowledge.

1172. Where an apprentice, at his master's desire, leaves the parish where his master lived, but returning and sleeping in that parish *without* his master's knowledge, it is *not* a residence under the indentures, but a mere *casual* residence, and *no* settlement is

gained in the master's parish. *Rex v. Smarden, E.* 51 *Geo.* 3. 13 *East*, 453. *Bott, continued to* 1814, 160, 1 *Nolan's Poor Laws*, 525. 529, 3*d edit.*

An apprentice leaving his master's parish and service, and sleeping in another parish.

1173. If an apprentice leaves his master's parish and service without returning, and goes into another parish, where he had been allowed to sleep at his mother's on the *Saturday* and *Sunday* nights, and there sleeps the two following nights, his settlement is in his master's parish, his service having ended on his quitting on *Saturday*. *Rex v. Ribchester, M.* 54 *Geo.* 3. 2 *Maule and Selwyn's King's Bench Reports*, 135. *Bott, continued to* 1814, 162. 1 *Nolan's Poor Laws, Add.* xxxi. 3*d edit.*

Forty days' residence following is not necessary.

1174. Forty days' residence *successively* is not necessary; a residence *off* and *on*, so that there is a *forty* days' residence, will be sufficient to gain a settlement. *Rex v. Cirencester, H.* 10 *Geo.* 3. 1 *Strange's Reports*, 579. 2 *Bott*, 386. 1 *Nolan's Poor Laws*, 523, 3*d edit.*

Forty days' residence in two parishes, and eight days in the first parish.

1175. An apprentice living *forty* days with his master in *one* parish, then *forty* days in another, and then *one* day in the first parish, he is settled in the *first* parish. *Rex v. Brighthelmestone, E.* 33 *Geo.* 3. 5 *Term Reports*, 188. 2 *Bott*, 393. 1 *Nolan's Poor Laws*, 523, 524, 3*d edit.*

Service with different Masters, without Assignment of the Indentures.

1176. An apprentice bound to *one* master in the parish of A., with the intent that he should serve *another* in the parish of B., is settled in the parish where the service is performed. *Holy Trinity v. Shoreditch, M.* 3 *Geo.* 1. 1 *Strange's Reports*, 10. 2 *Bott*, 405. 1 *Nolan's Poor Laws*, 509, 3*d edit.*

1177. An apprentice serving another by the *verbal consent* of his master, gains a settlement in the parish where the service is. *St. Olave's v. Allhallows, T.* 9 *Geo.* 1. *Cases in the King's Bench concerning Poor*, 153. 1 *Strange's Reports*, 554. 2 *Bott*, 406. 1 *Nolan's Poor Laws*, 524, 3*d edit.* *Rex v. St. George Hanover Square, M.* 8 *Geo.* 2. 2 *Sessions Cases*,

138. 2 *Strange's Reports*, 401. *Burrows' Settlement Cases*, 12. 2 *Bott*, 406. 1 *Nolan's Poor Laws*, 508. 510, 3*d edit.*

Serving another by leave of the first master.

1178. An apprentice serving *another* by leave from the first master, in another parish, and returns back the last eight days of his apprenticeship to his first master, is settled in the parish where he served the second master. *Rex v. Fremington, E.* 30 *Geo.* 2. *Burrows' Settlement Cases*, 416. 2 *Bott*, 409. 1 *Nolan's Poor Laws*, 510. 521, 3*d edit.*

Serving a third master by consent of the second.

1179. An apprentice gains a settlement by serving a *third* master under the *express* consent of the second master, to whom the first master had assigned him. *Rex v. Tavistock, E.* 7 *Geo.* 3. *Burrows' Settlement Cases*, 578. 2 *Bott*, 412. 1 *Nolan's Poor Laws*, 507, 3*d edit.*

Consent must be expresly given to serve a particular person.

1180. But the consent of the master must be expressly given to serve a particular person; *mere knowledge* is not enough; *a general licence to serve whom the apprentice chooses is not sufficient. Rex v. Holy Trinity in the Minories*, 30 *Geo.* 3. 3 *Term Reports*, 605. 2 *Bott*, 423. 1 *Nolan's Poor Laws*, 511. 514. 517, 3*d edit.*

An express consent to a second master, and a general leave to the apprentice.

1181. An express consent given to serve a second master, and a general leave to the apprentice to serve any other master is sufficient; and this, though the consent is not given till after the apprentice had been in the second service some time. *Rex v. Whitchurch, E.* 1823. 1 *Barnewall and Creswell's Reports*, 574. (*see pl.* 1199. *p.* 295. *post.*) *Rex v. Bradstone, H.* 27 *Geo.* 3. 2 *Bott*, 422. 1 *Nolan's Poor Laws*, 507. 514.

1182. The *consent* of the first master to a subsequent service *is sufficiently expressed* by his giving the apprentice a character, with *a view* to induce the second master to take him. *Rex v. St. Mary Lambeth, T.* 25 *Geo.* 3. *Caldecott's Settlement Cases*, 533. 2 *Bott*, 419. 1 *Nolan's Poor Laws*, 510, 511.

1183. The consent of the first master may be implied from circumstances, as where the apprentice serves another with his knowledge, and says to him, "You continue to work for *A. B.*; I think

it a very good place, and hope you will continue in it." The court were of opinion, that the consent here amounted to an *approbation* of the particular service, and that it was a sufficient assent to entitle the party to a settlement by service with *A. B. Rex v. Bradnich, T.* 21 *Geo.* 3. 2 *Bott,* 418. 1 *Nolan's Poor Laws,* 526. 521, 3*d edit.*

A particular consent to a particular service.

1184. A particular consent to a particular service will enable an apprentice serving under such service to gain a settlement by it, though the apprentice agrees to give the master a guinea to be let off the remainder of his time, and the master agrees to give him clothes when the guinea is paid. *Rex v. Shebbear, M.* 41 *Geo.* 3. 1 *East's Reports,* 73. 2 *Bott,* 427. 1 *Nolan's Poor Laws,* 504. 515. 3*d edit.*

But mere Knowledge of the Master is not sufficient.

General consent and mere knowledge of second service.

1185. An apprentice bound out by the parish of *A.* to a master of the same parish, who assigned him by parol agreement to *J. S.* of the parish of *B.*, and after serving seven months under such assignment, the apprentice runs away from the *second* master, and lives with a *third* person in the parish of *A*, for *nine* months, *with the knowledge,* but without any *express* consent either of the *first* or *second* master, and remains afterwards two years in that parish, in good health, and the servitude then expire, *no* settlement is gained in the original parish, there being *no consent* of the master either *express* or *implied;* his mere knowledge of the fact did *not imply* his consent. *Rex v. Ideford, H.* 16 *Geo.* 3. *Burrows' Settlement Cases,* 821. 2 *Bott,* 415. 1 *Nolan's Poor Laws,* 511, 3*d edit.*

A general consent to go and work for himself.

1186. A general consent given to an apprentice *to go about his business, and work for himself,* is not sufficient. *Rex v. St. Luke's, Middlesex, T.* 5 *Geo.* 3. *Burrows' Settlement Cases,* 542. 1 *Blackstone's Reports,* 553. 2 *Bott,* 411.

The consent of the original master must be express.

1187. The consent of the original master must be *express,* and for the *particular* service, in order

to give a settlement. *Rex v. Crediton, M.* 41 *Geo.* 3. 1 *East's Reports*, 59. 2 *Bott*, 426. (*See Rex v. Holy Trinity in the Minories, pl.* 1180. *p.* 291, *ante.*) *Notton v. Roystone, M.* 9 *Geo.* 3. *Burrows' Settlement Cases*, 629. 2 *Bott*, 412. 1 *Nolan's Poor Laws*, 500. 512.

Apprentice going into another service with leave of his mistress.

1188. An apprentice before the expiration of the term, asking his mistress leave to go into another service, without mentioning where he was going, the mistress saying, *she was not against it if he could better himself.* The apprentice then went and hired himself to *A. B.* in another parish for a year at certain wages; he then returned to his mistress, and told her what he had done, who said, *very well, she was not against it.* The apprentice then went to his new place, and lived with *A. B.* for *three* months. It was held, that the service with *A. B.* was *not* a service under the indenture, because there was not a *particular assent* of the mistress to that service; and because the service with *A. B.* was not as an *apprentice*, but as a *servant* under a contract of hiring. *Rex v. Inhabitants of Whitchurch, E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports*, 574.

An apprentice bound till 24, and serving till 21, and then binding to another master.

1189. A parish apprentice bound (before the passing of the 18 *Geo.* 3. *c.* 47.) till twenty-four, and serving till he was near twenty-one, when his master being about to leave the parish, and not wanting him any longer, told him, "*he might leave him, and go where he liked and shift for himself, but if he could not provide for himself, he might return to him;*" upon which he quitted, and when he was about four months past twenty-one, bound himself by indenture as an apprentice to another master for *three* years, and served the *three* years. It was held by the court, that he *did not* acquire a settlement *by service* under the second indenture. *Rex v. Inhabitants of Bow, otherwise Nymett Tracey, M.* 56 *Geo.* 3. 4 *Maule and Selwyn's Reports*, 383.

1190. An original master telling his apprentice *he may do the best he can for himself*, and afterwards the original master, on hearing from the second master

that the apprentice had procured a place, expressed his satisfaction thus, "*I am glad of it; he was a bad lad, and I could make nothing of him*;" it is not such a consent as will give a settlement. *Rex v. St. Helen's, Stangate, H.* 41 *Geo.* 3. 1 *East's Reports*, 285. 2 *Bott*, 429. 1 *Nolan's Poor Laws*, 512. 518, 3*d edit.*

Service with a second master by leave of the representative of the first.

1191. Where the parties act under an idea that the indentures are at an end, although they are not in fact delivered up or cancelled, no settlement can be gained as an apprentice under the indentures. *Rex v. Crediton.* (*See p.* 292, *pl.* 1186, *ante.*)

Apprentice turned over by parol agreement.

1192. An apprentice turned over by his master's widow by parol agreement (not having taken out letters of administration), the service with the second master for *forty* days, will be service under the indenture. *Rex v. East Bridgeford, T.* 13 *Geo.* 2. *Burrows' Settlement Cases*, 133. 2 *Bott*, 407. 1 *Nolan's Poor Laws*, 507. 509. 513, 3*d edit.*

Apprentice, after serving forty days, discharged by the widow of deceased master.

1193. Where an apprentice bound for three years, and serving *forty* days in the parish of *A.*, and afterwards, on the death of the master, is discharged by the widow, who had taken out letters of administration, served his father in *B.* two or three years, his settlement is in *A. Rex v. Chirk, T.* 14 *Geo.* 3. *Burrows' Settlement Cases*, 782. 2 *Bott*, 391. 1 *Nolan's Poor Laws*, 573, 3*d edit.*

Continuing to serve under an indenture by leave of executors.

1194. An apprentice continuing to serve under an indenture, by leave of the executors of a deceased master, will gain a settlement in the parish where he serves. *Rex v. Stockland, H.* 19 *Geo.* 3. *Douglass's Reports*, 70. *Caldecott's Reports of Settlement Cases*, 60. 2 *Bott*, 416. 1 *Nolan's Poor Laws*, 509, 3*rd edit.*

Service under actual Assignment of Indentures.

Apprentice assigned to a second master, and serving under the assignment.

1195. An apprentice assigned to another master, and serving in pursuance of the assignment, *is a service under the first indenture*, and he gains a settlement; it signifies not whether he serves with

one master or the other. *St. Olave's v. All Hallows, T.* 9 *Geo.* 1. *Sessions Cases,* 248. 2 *Bott,* 407. *Nolan's Poor Laws,* 509, *3rd edit.*

Apprentice assigned to a second master by indorsement.

1196. An apprentice assigned to a second master by indorsement on the indenture, gains a settlement by serving such second master *forty* days in the parish where the service is performed. *St. Petrox v. Stoke Fleming, T.* 19 *Geo.* 2. *Burrows' Settlement Cases,* 248. 2 *Bott,* 407. 1 *Nolan's Poor Laws,* 509, *3rd edit.*

The agreement must be proved.

1197. To enable an apprentice to gain a settlement by serving a *second* master, the *agreement* must be proved, and if the proof is by *an indorsement* or *other* writing, it must be stamped, or it cannot be received in evidence, nor can parol evidence be received if the agreement *was made in writing. Rex v. St. Paul's, Bedford, M.* 36 *Geo.* 3. 62. 6 *Term Reports,* 452. 3 *Bott,* 425. 1 *Nolan's Poor Laws,* 509, *3rd edit.*

If the indenture is lost.

1198. But if an indenture is lost, parol evidence may be received *of its contents and existence. Rex v. Knoyle, T.* 13 *and* 14 *Geo.* 2. *Burrows' Settlement Cases,* 151. 2 *Bott,* 448. 1 *Nolan's Poor Laws,* 540. 544, *3rd edit.*

Apprentice and indenture delivered to a second master, and placed with a third.

1199. An apprentice and the indenture delivered to a *second* master, and by him placed with a *third* master, gains a settlement by service under the *first* binding. *Rex v. Clapham, E.* 20 *Geo.* 2. *Burrows' Settlement Cases,* 266. 2 *Bott,* 408. 1 *Nolan's Poor Laws,* 500. 507. 510, *3rd edit.*

Consent of the second master includes that of the first.

1200. A parish apprentice bound by his original master to another by a *new* indenture, without reference to or recognition of the original indenture, which still subsisted in law, does *not* gain a settlement by serving his new master as upon a constructive service of the original master under the first indenture; it being only evidence of the first master's consent to the service, under a new contract of apprenticeship. *Rex v. Christowe, E.* 49 *Geo.* 3. 11 *East's Reports,* 95. *Bott, continued to* 1814, 8. 1 *Nolan's Poor Laws,* 520. 521, *3rd edit.*

A parish apprentice assigned by the first master without the consent of two magistrates.

1201. A *parish* apprentice assigned by his original master to *A. B.*, by an indorsement in writing, but without the consent of *two* magistrates, it was held not a lawful assignment under the 32 *Geo.* 3. *c.* 57. *s.* 7.; but it is sufficient to show the consent of the first master to the service to *A. B.*, and therefore such service was good as a service under the original indenture, and conferred a settlement. *Rex v. Inhabitants of Barleston, E.* 3 *Geo.* 4. 5 *Barnewall and Alderson's K. B. Reports,* 780.

Of Service, the Indentures being delivered up or made void by Acts of the Parties.

Exchange of indenture of apprenticeship between master and apprentice.

1202. Indentures of apprenticeship being exchanged between the master and the apprentice, the apprentice *cannot* afterwards gain a settlement under them by serving *another* master with the *knowledge* of the *first*. *Rex v. St. Mary, Kallendar, T.* 21 *and* 22 *Geo.* 2. *Burrows' Settlement Cases,* 274. 2 *Bott,* 395. 1 *Nolan's Poor Laws,* 499, 501. 511. 3*rd edit.*

Exchange of indentures is a cancelling.

1203. Exchanging the indentures is a *virtual cancelling;* inhabitancy by reason of sickness gains *no* settlement; and there is no difference between the indentures being *given up* and being *cancelled.* *Rex v. Titchfield, M.* 4 *Geo.* 3. *Burrows' Settlement Cases,* 511. 2 *Bott,* 397. 1 *Nolan's Poor Laws,* 501. 526, 3*rd edit.* (*and see Rex v. Barneby in the Marsh, p.* 286. *pl.* 1163.)

Master becoming bankrupt.

1204. Bankruptcy of the master does not discharge the apprentice from his indentures. *Rex v. Buckingham, E.* 10 *Geo.* 1. *Bott,* 395. 1 *Nolan's Poor Laws,* 498, 3*rd edit.*

An apprentice agreeing with his master for his discharge on certain terms.

1205. An apprentice agreeing with his master for his discharge and quitting him, but leaving the indentures till the money agreed for should be paid, by which the master all this time *keeps a control over the apprentice;* the indentures were *not* discharged, and service under a *second* master by the *express consent* of the first, *is a service* under the indentures. *Rex v. Chipping Warden, H.* 39 *Geo.* 3. 8 *Term*

Reports, 108. 2 *Bott*, 404. 1 *Nolan's Poor Laws*, 447. 503, *3rd edit.*

1206. Where the mother of an apprentice, whose time had not expired, applied to his master to give him up to her, and the master having consented, and all parties having agreed to part, the apprentice went away; but the indenture, which was in the hands of a third person, was never applied for nor given up. It was held that the apprenticeship was not put an end to by this agreement, although the master said he would have given up the indenture if it had been in his possession at the time, and afterwards refused to take the apprentice back again. *Rex v. Sheffington, H.* 60 *Geo.* 3, *and* 1 *Geo.* 4. 3 *Barnewall and Alderson's King's Bench Reports*, 382. (*See Rex v. Box, p.* 293. *pl.* 1189. *ante.*)

Apprentice given up to his mother by the master, on an agreement to part.

1207. An apprentice bound by his father may be discharged, although under age, by the consent of all parties to the indentures. *Rex v. Weddington, E.* 14 *Geo.* 3. *Burrows' Settlement Cases*, 766. 2 *Bott*, 398. 7 *Nolan's Poor Laws*, 447. 449. 500, 3*d edit.*

An apprentice may be discharged being under age.

1208. An apprentice entering the king's service *with the consent* of his master does not avoid the indentures. *Rex v. Hindrington, H.* 36 *Geo.* 3. 6 *Term Reports*, 557. 2 *Bott*, 402. 1 *Nolan's Poor Laws*, 449. 505, 3*d edit.*

Apprentice entering the king's service.

1209. Where an infant bound himself apprentice for seven years by indenture, to which indenture he and his master were the only parties, and after serving some time, in consequence of his master running away and leaving him, he procured the indenture to be given up to him with the master's consent; and afterwards, during the seven years, he hired himself as a yearly servant, and served a year. It was held that he *acquired* a settlement by hiring and service, and the contract was dissolved. *Rex v. Mountsorrel, H.* 55 *Geo.* 3. 3 *Maule and Selwyn's Reports*, 497.

An infant binding himself for seven years.

Delivering up Parish Indentures.

1210. An indenture being delivered up by the first master to the father of the apprentice, and at the

Indentures of apprenticeship delivered up by the first master.

same time the master consenting to the apprentice serving a second master as turned over to him; a settlement is gained by such service. *Rex v. Langham, M.* 22 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 126. 2 *Bott,* 399. 1 *Nolan's Poor Laws,* 498. 500. 510, 3*d edit.*

Master agreeing that apprentice shall work for his own benefit.

1211. The master of a *parish* apprentice agreeing that the apprentice shall work for his own benefit, paying the master 12*d.* a week, does not void the indenture, nor imply a giving of it up. *Rex v. Offerton, E.* 15 *Geo.* 3. *Burrows' Settlement Cases,* 802. 2 *Bott,* 414. 1 *Nolan's Poor Laws,* 519, 3*d edit.*

Parish apprentice cannot consent to his discharge.

1212. A parish apprentice under age cannot consent to his discharge. *Rex v. Austrey, H.* 31 *Geo.* 2. *Burrows' Settlement Cases,* 441. 2 *Bott,* 410. 1 *Nolan's Poor Laws,* 499, 500. 512, 3*d edit*

Delivering up indenture to the apprentice under age.

1213. Delivering up the indentures to a *parish* apprentice when he is under age, does not discharge the apprenticeship. *Rex v. Sandford, T.* 26 *Geo.* 3. 2 *Bott,* 391. 1 *Nolan's Poor Laws,* 520. 524, 3*d edit.*

A parish apprentice at full age may consent to his discharge.

1214. A *parish* apprentice, at full age, may consent to his discharge, which consent, together with the consent of the master, is a good discharge, though the *parish officers* do not join in the consent. *Rex v. Ecclesal Bierlow, E.* 6 *Geo.* 3. *Burrows' Settlement Cases,* 562. 1 *Blackstone's Reports,* 592. 2 *Bott,* 397. 1 *Nolan's Poor Laws,* 500, 3*d edit.*

A parish apprentice of full age leaving his master, and the indenture being delivered up.

1215. A parish apprentice, when of full age, leaving his master, and the indenture being delivered up to him, a subsequent service with another is not a service under the indenture, though the term is expired. *Rex v. Notton, M.* 9 *Geo.* 3. *Burrows' Settlement Cases,* 629. 2 *Bott,* 412. 1 *Nolan's Poor Laws,* 500, *n.* 3*d edit.*

A parish apprentice at full age paying money for his discharge.

1216. A *parish* apprentice, when of full age, paying money for his discharge, but the indenture not being actually delivered up, though offered by the master to the father of the apprentice, who did take them because he thought it was not material so to do, will gain a settlement by hiring and service, as if no indentures existed. *Rex v. Harlerton, H.*

26 *Geo.* 3. 1 *Term Reports*, 139. 2 *Bott*, 400. 1 *Nolan's Poor Laws*, 500, 501, 502, 3*d edit.*

1217. A *parish* apprentice may, after the death of his master, *hire* himself as a servant, and he will gain a settlement by service. *Apprenticeship is a personal trust between master and servant, and is determined by the death of either master or apprentice.* *Rex v. Eakring, E.* 26 *Geo.* 2. *Burrows' Settlement Cases*, 320. 2 *Bott*, 396. 1 *Nolan's Poor Laws*, 498, 499, 3*d edit.*

Parish apprentice after the death of his master may hire himself as servant.

Apprenticeship under Certificates.

1218. An apprentice of an *uncertificated man*, serving a *certificated man*, cannot gain a settlement in the *certificated* man's parish where the service is performed.

Apprentice of an uncertificated man serving a certificated man.

1219. An apprentice to a *certificated* man, and during his apprenticeship (he *being eighteen years of age*) his father gained a new settlement, and the apprentice did not return to his father's till after twenty-one, it was held that he was not emancipated, but followed his father's settlement. *Rex v. Huggate, E.* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports*, 582.

An apprentice to a certificated man may follow his father's settlement.

1220. An apprentice to a *certificated* man, serving an *uncertificated* man in the same parish, does not acquire a settlement by the service under the indenture of the second master, although he was not residing under certificate. *Rex v. Hinckley*, 31 *Geo.* 3. 4 *Term Reports*, 371. 2 *Bott*, 437. 2 *Nolan's Poor Laws*, 164. 180. (*See pl.* 1225. *p.* 300, *ante.*)

An apprentice to a certificated man serving an uncertificated one.

1221. A second certificate to a pauper discharges a former one given by the same parish. *Rex v. St. Peter in the Borough of Derby, E.* 26 *Geo.* 3. 1 *Term Reports*, 218. 2 *Bott*, 437. 2 *Nolan's Poor Laws*, 182.

A second certificate discharges a former one.

1222. An apprentice bound and serving twenty-two days before the master obtained a certificate, does not gain a settlement in the parish wherein the master resides *under a certificate.* *St. Cuthbert's v.*

Apprentice bound and serving 22 days before master obtained a certificate.

Westbury, H. 32 *Geo.* 2. *Burrows' Settlement Cases,* 470. 2 *Bott,* 434. 2 *Nolan's Poor Laws,* 181.

Apprentice to a certificated man.

1223. But an apprentice to a man who had a certificate, but which was *not* delivered till after the apprenticeship, may gain a settlement by such apprenticeship. *Rex v. Wensley, H.* 33 *Geo.* 3. 4 *Term Reports,* 154. 2 *Bott,* 439. 2 *Nolan's Poor Laws,* 173. 180. (*See pl.* 1227. *post.*)

Certificate extends to the apprentice of the widow.

1224. An apprentice taken by the second wife after the death of her husband, who had resided under a certificate, can *not* gain a settlement by service under the indenture, because she was residing under certificate. *Rex v. Hampton, E.* 33 *Geo.* 3. 5 *Term Reports,* 266. 2 *Bott,* 440. 1 *Nolan's Poor Laws,* 174, 175.

Apprentice to a certificated man assigned to a parishioner.

1225. An apprentice to a *certificated* man, assigned to a legal *parishioner* of the certificated parish, cannot gain a settlement by such service. *Rex v. Hinckley, T.* 31 *Geo.* 4. *Term Reports,* 371. 2 *Bott,* 437. 2 *Nolan's Poor Laws,* 180. (*See pl.* 1220. *p.* 299, *ante.*)

Certificated persons must reside.

1226. Persons who *come into* a parish under a certificate must also *inhabit and reside* under it for the purpose of being within the operation of the certificate acts (*the* 8 *and* 9 *W.* 3. *c.* 3., *and* 9 *and* 10 *W.* 3. *c.* 11). *Rex v. Mortlake, E.* 45 *Geo.* 3. 6 *East,* 397. 2 *Bott,* 619. 2 *Nolan's Poor Laws,* 178. 190.

Certificate by friendly society not available.

1227. A certificate by a friendly society to a member, under the 33 *Geo.* 3. *c.* 54, without proof of *delivery* of it to the parish officers, not available to prevent a settlement. *Rex v. Egremont, T.* 57 *Geo.* 3. 14 *East,* 253. *Bott, continued to* 1814, 21. 2 *Nolan's Poor Laws,* 194.

As to the Evidence relating to Indentures of Apprenticeship.

If indenture is lost.

1228. If an indenture of apprenticeship is lost, other evidence may be received of its contents and

existence. *Rex v. East Knoyle, T.* 13 *and* 14 *Geo.* 2. *Burrows' Settlement Cases,* 151. 2 *Bott,* 448. 1 *Nolan's Poor Laws,* 540. 544, 3*d edit.*

Proof of its being lost.

1229. The indentures must be clearly proved to be lost. *Rex v. St. Helen's in Abingdon,* 22 *and* 23 *Geo.* 2. *Burrows' Settlement Cases,* 292. 735. 2 *Bott,* 449. 1 *Nolan's Poor Laws,* 542, 3*d edit.*

If not produced in evidence.

1230. If an indenture of apprenticeship cannot be produced, evidence must be adduced to show that it was lost or destroyed, and so also of both parts of the indenture. *Rex v. Castleton, E.* 35 *Geo.* 3. 6 *Term Reports,* 236. 2 *Bott,* 454. 1 *Nolan's Poor Laws,* 541. 543, 3*d edit.*

Of notice to produce the indenture.

1231. It was held by the court of K. B. that if the respondents give notice to the appellants to produce an indenture, the respondents are not obliged toprove the execution of it. *Rex v. Middleroy, T.* 27 *Geo.* 3. 2 *Term Reports,* 41. 2 *Bott,* 452. *Phillips's Law of Evidence,* 6*th edit.* 483.

The execution must be proved, by whom.

1232. But it is now held that the execution of an indenture must be proved by the party calling for it, though it come out of the hands of the adverse party. *Gorden v. Secretan, T.* 47 *Geo.* 3. 8 *East,* 548. 1 *Nolan's Poor Laws,* 538, 3*d edit. Pearce v. Hooper and others.* 3 *Taunton's Reports,* 62. *Orr v. Morice,* 3 *Br. and B.* 139. *Phillips's Law of Evidence,* 431, 432, 6*th edit.*

Settlement by renting a Tenement.

Tenement under 10*l.* a year.

1233. Persons coming to settle in a tenement under 10*l.* a year, are removable to the parish of legal settlement. 13 *and* 14 *Car.* 2. *c.* 12. *s.* 1.

Certificated persons.

1234. Certificated persons can only gain a settlement by *taking a lease of* a tenement of the yearly value of 10*l.*, or by *executing some annual parish office.* 9 *and* 10 *W.* 3. *c.* 11.

Collectors of tolls, &c.

1235. Collectors of turnpike tolls, gate-keepers, or toll-keepers of any turnpike road or navigation, nor persons renting turnpike tolls, nor their apprentices, cannot gain a settlement thereby. 54 *Geo.* 3. *c.* 170. *s.* 5. 3 *Geo.* 4. *c.* 126. *s.* 57.

Prisoners for debt.

1236. Nor prisoners in the K. B. by renting a tenement or payment of rates, nor their servants by residence. 23 *Geo.* 3. *c.* 23. *s.* 1. 54 *Geo.* 3. *c.* 170. *s.* 4.

Forest of Alice Holt.

1237. A residence in the forest of *Alice Holt* does not gain a settlement in the parish of *Binstead*, in the county of *Southamptom*. 52 *Geo.* 3. *c.* 72. *s.* 8.

Persons formerly were removable within forty days, where.

1238. Formerly a person was removable from a tenement under the value of 10*l.* a year, if complaint was made within forty days after coming to settle in the tenement; if the complaint was not made within the forty days the party could not be removed, because he had gained a settlement. 13 *and* 14 *Car.* 2. *c.* 12.

If of 10l. per annum value.

1239. Persons coming to settle in a tenement of the value of 10*l.* per annum, are unremovable.

How after July, 1819.

1240. After 2nd July, 1819, no person can acquire a settlement in *England* by renting a tenement, and dwelling therein for forty days, unless the tenement consists of a house or building, being a *separate* and *distinct* dwelling-house or building, or of land, *or of both, bonâ fide, hired* at 10*l.* a year at the least for one *whole* year, nor unless such house shall be held, and the land occupied, and the rent *actually* paid for *one whole* year at the least *by the person hiring the same*, nor unless the *whole* of such land shall be situated within the same parish as the house wherein the party shall dwell and inhabit. 59 *Geo.* 3. *c.* 50*: (*See the next pl.* 1241.)

How after 22nd June, 1825.

1241. But now no person after the 22d *June*, 1825, can acquire a settlement by settling upon, renting, or paying parochial rates for any tenement, not being his own property, unless such tenement consists of a separate and distinct dwelling-house, or

---

* Intituled "An act to amend the laws respecting the settlement of the poor, as far as regards renting tenements."

building, or of land, or of both, *bonâ fide rented* by such person at 10*l.* per annum at the least, for the term of *one whole year*, nor unless the house, or building, or land, *shall be occupied* under such *yearly hiring*, and the rent *to the amount* of 10*l. actually* paid *for one whole year at least; and it is not necessary to prove the actual value of the tenement.* 6 *Geo.* 4. *c.* 37. *s.* 2*.

1242. The tenement must consist of a *separate* and *distinct* dwelling-house or building, or of land, or of both. Nature of the tenement.

1243. It must be *bonâ fide* rented at 10*l.* a year for *one whole year.* Hiring, rent, and term.

1244. The house or building must be occupied *for one whole year.* Occupation.

1245. The rent must be *actually* paid *for one whole year.* Payment of rent.

1246. No person shall be deemed or taken to gain any settlement, by reason of any residence within any district, parish, township, or hamlet, where he, she, or they shall be detained as a prisoner within any such district, &c. on any civil process, or for any contempt whatever. 54 *Geo.* 3. *c.* 170. *s.* 4. Prisoners for debt.

What constitutes such a Tenement as will confer a Settlement by Residence.

1247. Renting a coney warren, with a cottage upon it, at 10*l.* a year, *gains a settlement*; it is not material whether the party pays for a house or habitation, or for a warren which brings him in a profit. *Kinver v. Stone, H.* 12 *Geo.* 3. 1 *Strange's Reports.* 2 *Sessions Cases,* 109. 2 *Bott,* 92. 2 *Nolan's Poor Laws,* 4, 9. (*See Evelyn v. Rentcomb,* Renting a coney warren.

---

* Intituled "An act for the amendment of the laws respecting the settlement of the poor, as far as regards renting tenements and paying parochial taxes."

H. 10 *Anne.* 2 *Salkeld's Reports,* 536. 2 *Bott,* 92. 2 *Nolan, pl.* 1253. *post.*)

Though the tenant has no right to the soil.

1248. And so, though the tenant has no right to the soil, except that of entering and killing rabbits. *Rex v. Piddletrenthide, T.* 30. *Geo.* 3. 3 *Term Reports,* 772. 2 *Bott,* 99. 2 *Nolan's Poor Laws,* 9. 13. 36. 49.

Renting a fishery.

1249. Renting a fishery will gain a settlement, it being a tenement within the statute, presuming that the soil passed along with it. *Rex v. Old Alresford, T.* 26 *Geo.* 3. 1 *Term Reports,* 358. 2 *Bott,* 97. 2 *Nolan's Poor Laws,* 10.

Liberty to take gravel from a river.

1250. Liberty (by order of a corporation) to take sand and gravel from the bed of a river, with a condition that the party sold the sand to the inhabitants of the town at a certain rate, for which liberty he paid the corporation at the rate of 10*l.* per annum. *Rex v. All Saints, Derby, E.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 90.

Renting a cattle gate.

1251. Renting a cattle gate is a tenement within the statute, and gains a settlement. *Rex v. Wixley, H.* 26 *Geo.* 3. 1 *Term Reports,* 137. 2 *Bott,* 97. 2 *Nolan's Poor Laws,* 10. 28. 42.

Renting a right of common.

1252. So does renting a right of common in gross. *Rex v. Dersingham, T.* 38 *Geo.* 3. 7 *Term Reports,* 671. 2 *Bott,* 105. 2 *Nolan's Poor Laws,* 10. 15. 45.

Renting tolls of a market.

1253. A settlement may be gained by renting the tolls of a market. *Rex v. Chipping Norton, T.* 44 *Geo.* 3. 5 *East's Reports,* 239. 2 *Bott,* 112. 2 *Nolan's Poor Laws,* 9. 51.

Water or wind-mill.

1254. Renting either a water-mill or a wind-mill gains a settlement. *Evelyn v. Rentcombe, H.* 10 *Anne.* 2 *Salkeld's Reports,* 536. 2 *Bott,* 92. 2 *Nolan's Poor Laws,* 9. (*See p.* 303. *pl.* 1246. *ante.*) *Rex v. Butley, T.* 10 *Geo.* 2. 1 *Sessions Cases,* 320. *Burrows' Settlement Cases,* 107. 2 *Bott,* 93. 2 *Nolan,* 9.

Taking the pasture of land.

1255. Taking the *pasture* of a piece of land gains no settlement; but taking a pasture ground will gain a settlement, it being a tenement within the

statute. *Rex v. Minchin-Hampton, E.* 3 *Geo.* 2. 2 *Sessions Cases,* 132. 2 *Strange's Reports,* 174. *Burrows' Settlement Cases,* 316. 2 *Nolan's Poor Laws,* 9.

1256. Renting hay-grass and aftermeath gains a settlement. *Rex v. Stoke, E.* 28 *Geo.* 3. 2 *Term Reports,* 98. 2 *Nolan's Poor Laws,* 9. 16. Hay-grass and aftermeath.

1257. Renting two ponds, or the rushes and flags growing therein, with the exclusive right of cutting them at pleasure, is a sufficient tenement, if of the value of 10*l.* a-year, to confer a settlement. *Rex v. Inhabitants of All Saints, Cambridge, M.* 3 *Geo.* 4. 1 *Barnewall and Creswell's Reports,* 23. 2 *Nolan's Poor Laws,* 10. Ponds.

1258. Renting fogg or after-grass gains a settlement, and so does the renting of land for a particular purpose, such as setting potatoes, &c. *Rex v. Brampton,* 4 *Term Reports,* 348. 2 *Bott,* 101. 2 *Nolan's Poor Laws,* 9. 49. Fogg or after-grass.

1259. A crop of growing corn, bought at an auction, is a purchase, and not such a renting as will confer a settlement. *Rex v. Bowness, T.* 55 *Geo.* 3. 4 *Maule and Selwyn's Reports,* 210. Growing corn bought at an auction.

1260. Renting a dairy will gain a settlement. *Rex v. Piddletrenthide, T.* 30. *Geo.* 3. 3 *Term Reports,* 772. 2 *Bott,* 99. 2 *Nolan's Poor Laws,* 13. Renting a dairy.

1261. Renting cows at so much a-year each, to be fed in certain grounds (which must be of the value of 10*l.* a-year, for the value of the cows cannot form any part of the annual value) belonging to the owner exclusively of any other cattle, *is a tenement.* Any thing is a tenement which is *profit* out of land. In order to make a tenement, it is not necessary the party should have the fee-simple or fee-tail; any minute interest in land is parcel of a tenement; such minute interest cannot be entailed, but all the parcels when consolidated together may. *Rex v. Tolpuddle, E.* 32 *Geo.* 3. 4 *Term Reports,* 671. 2 *Bott,* 101. 2 *Nolan's Poor Laws,* 15. *Rex v. Minworth, H.* 42 *Geo.* 3. 2 *East's Reports,* 198. 2 *Bott,* 110. 2 *Nolan,* 36. Renting cows to be fed on the owner's lands.

As to where the cows are fed.

1262. And it is sufficient though the pauper has not an exclusive right to the pasture where the cows are fed, and the cows are his own. *Rex v. Hillington, M.* 43 *Geo.* 3. 3 *East's Reports,* 113. 2 *Bott,* 111. 2 *Nolan's Poor Laws,* 16.

Contract to feed cows generally.

1263. A contract to feed cows generally, under which they might be fed with green tares, bought in the market, would not be a tenement within the meaning of the act. *Rex v. Fisbury, M.* 45 *Geo.* 3. 2 *Nolan's Poor Laws,* 19.

Contracting for milking cows.

1264. A pauper contracting for the privilege of milking cows, *not his own*, and they to be fed on a certain farm, will gain a settlement. *Rex v. Stoke upon Trent, H.* 49 *Geo.* 3. 10 *East's Reports,* 496. *Bott continued till* 1814, 117. 2 *Nolan's Poor Laws,* 16.

Contract for a pasture-fed cow for the season.

1265. A contract for a pasture-fed cow for the season, or the hiring of a dairy of cows, whether consisting of *one* or more, where the party who lets them is to feed them on his land, is such a taking of a tenement within the statute as will give settlements. *Rex v. Inhabitants of Darley Abbey, T.* 51 *Geo.* 3. 14 *East's Reports,* 280. *Bott continued till* 1814, 120. 2 *Nolan's Poor Laws,* 17.

Pauper hired as bailiff, and to have the feed of two cows.

1266. A pauper hired as a bailiff, at weekly wages, and to have the feed of two cows in his master's pastures. It was held that, by the feeding of the cows, which was above the yearly value of 10*l.*, he gained a settlement. *Rex v. Minster, M.* 55 *Geo.* 3. 3 *Maule and Selwyn's Reports,* 276. 2 *Nolan's Poor Laws,* 47.

The like to a farmer, with leave to feed two cows.

1267. A pauper serving a farmer was to have the liberty to feed two cows on his master's farm during a year. They were fed, during the summer, in the pasture of his master, and in the winter in his straw-yard, with hay grown on his lands. It was found that the keep of two cows during the summer months required land worth five guineas a year, and to cut hay sufficient for the winter keep required land of the further value of five guineas. Held that *the right to feed* the two cows upon the pasture

during the summer was the only part of the contract which gave any interest in the land, and that the pauper did not thereby gain a settlement, the annual value of the pasture being less than 10*l.* *Rex v. Inhabitants of Sutton St. Edmund's, in the county of Lincoln, E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports,* 536. 2 *Nolan's Poor Laws,* 19.

Contract for wages and the agistment of cows.

1268. By one entire contract, a master agreed to give his servant 20*l.* a-year, a cottage to live in, and the agistment of one cow for his own services; and the sum of 28*l.*, and the agistment of another cow, in consideration of his lodging and maintaining in the cottage two of his master's labourers. The annual value of the lands on which the two cows were depastured exceeded 10*l.*, but the annual value of land sufficient to depasture one cow only would have been less than 10*l.* It was held that the pauper gained a settlement by the right to agist the two cows. *Rex v. Inhabitants of Cherry Willingham, E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports,* 626. 2 *Nolan's Poor Laws,* 48.

A pauper hired as a shepherd, at so much a-week, with the run of thirty sheep.

1269. A pauper hired for a year as a shepherd, who was to have a house and garden rent-free, 7*s.* a-week, and the going of thirty sheep with his master's flock, as wages. He served for two years at those wages in the parish of A, during all which time the sheep went on his master's farm, the whole of which was in that parish. The feed of the sheep was worth 16*l.* a-year. It was held that this did not confer a settlement, it not being any part of the bargain that the sheep should be pasture-fed. *Rex v. Bardwell, T.* 4 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 161. 2 *Nolan's Poor Laws,* 20.

A pauper hired for a year, and had a house, garden, and potatoe-land, and the keep of a cow.

1270. A pauper was hired for a year, and had, by agreement, a house and garden, a rood of potatoe-land, and the keep of a cow on his master's land. After the pauper had served ten years, his cow failing in milk, the pauper had, in lieu of the cow, two heifers kept for him, through the kindness of his master, and not in consequence of any bargain. The potatoe-land and the keep of two heifers was of the yearly value of 10*l.*, but the potatoe-land and the

keep of one cow was of less value than 10*l.* It was held that the pauper, by having the potatoe land and the keep of the two heifers before the passing of the 59 *Geo.* 3. *c.* 50. gained a settlement, but by having the potatoe land and the keep of two heifers after the passing of the said act, he would not have gained a settlement. *Rex v. Inhabitants of Benneworth, E.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 775. 2 *Nolan's Poor Laws,* 18.

Occupation under different hirings may be connected so as to make a hiring for a year.

1271. A pauper, three weeks after *May-day,* 1820, hired a house and land in the parish of *S.* for a year from the preceding *May-day,* at the rent of 15*l.,* and at the expiration of that time, hired it again for another year at the same rent. He occupied the premises from the time of the first hiring, until six months after the second hiring, and paid the rent during the whole period, calculated from *May-day* 1820. It was held that he thereby gained a settlement in *S.,* for the occupation under the different hirings might be connected so as to make an occupation for one whole year within the meaning of 59 *Geo.* 3. *c.* 50. *The King v. The Churchwardens and Overseers of the Parish of Stow, E.* 6 *Geo.* 4. 4 *B. and C.'s Rep. p.* 87.

Waiter at an hotel having a tap, with the privilege of selling beer.

1272. Where the waiter at an hotel had a tap, or privilege of selling beer, and the use of a cellar belonging to the hotel for holding his beer, which had a distinct and separate entrance, and of which he kept the key, and paid for the whole of his situation of waiter, and for the tap and cellar, the yearly rent of 60*l.* The annual value of the cellar, independently of the privilege of the tap, was upwards of 6*l.* It was held that this was not such an occupation of the cellar as would confer a settlement. *Rex v. Seacroft, E.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 472. 2 *Nolan's Poor Laws,* 27.

Occupation as a servant, and not as a tenant.

1273. The occupation of premises by a *servant,* and not in the character of a *tenant,* will not confer a settlement. *Rex v. Kelstern, E.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 136. 2 *Nolan's Poor Laws,* 45, 46. (*See Rex v. Minster, p.* 306, *pl.*1266.) *Rex v. Cheshunt, E.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 473. 2 *Nolan,* 47.

1274. A licence for a year to use part of the machinery of a mill, will not confer a settlement. 4 *Burn, p.* 564, *edit.* 1825. Machinery of a mill.

1275. A pauper, by trade a needle maker, renting *pointing-places* * in a mill, will not confer a settlement, unless *fixed* to the floor of the mill. *Rex v. Dodderhill, H.* 40 *Geo.* 3. 8 *Term Reports,* 449. 2 *Bott,* 106. 2 *Nolan's Poor Laws,* 24. Renting pointing places in a mill.

1276. Renting runners for scouring needles in a mill, and a packeting room at 1*s.* a packet. The runners being part of the machinery, and *fixed* to the floor of the mill, will not confer a settlement. *Rex v. Tardebigg, T.* 41 *Geo.* 3. 1 *East's Reports,* 528. 2 *Bott,* 107. 2 *Nolan's Poor Laws,* 25. Renting runners in a mill.

1277. Renting a standing place for a carding machine will not confer a settlement. *Rex v. Mellor, H.* 42 *Geo.* 3. 2 *East,* 189. 2 *Bott,* 108. 2 *Nolan's Poor Laws,* 25, 26. Renting a standing place for a carding machine.

1278. A master of a charity school, removable from his office at pleasure, residing for several years, rent free, in a house of the annual value of 10*l.*, where other parish schoolmasters had resided before, part of the house he underlet to the parish, at an annual rent. It was held, that this was a coming to settle upon a tenement of the value of 10*l.* a year within the meaning of 13 *and* 14 *Car.* 2, and that the pauper gained a settlement thereby. *Rex v. Inhabitants of Lakenheath, E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports,* 531. 2 *Nolan's Poor Laws,* 43. Master of a charity school.

1279. After 2d *July,* 1819, "*No person shall* Settlement by renting a tenement under 59 Geo. 3. c. 50.

---

* Pointing-places are frames of wood which support the spindles on which the grinding stones turn, which are moved by means of leathern straps, communicating with the great wheel of the mill, which is turned by water; and are placed on the floor of the room, and at each of them a man sits, and the needles are pointed by being pressed against the grinding stones.

What the tenement must consist of.

acquire a settlement in England *by renting a tenement and residing forty days, unless the tenement consists of a separate and distinct dwelling-house or building, or land, or both,* bonâ fide *hired at* 10*l. a year at the least, for a whole year; nor unless the same shall be held and occupied, and the rent* actually paid by the person hiring the same; *nor unless the* whole *of such land is situated within the same parish as the house in which such person shall dwell.*" 59 *Geo.* 3. *c.* 50. *But see* 6 *Geo.* 4. *c.* 57. *pl.* 1294, *p.* 313, *which repeals this act after the* 22*d June,* 1825.

Renting of different persons at different times.

1280. After the passing of the above act (*pl.*1279) the pauper held together for a year a house and garden, and paid rent for the same during that period. They were taken of *different persons* at *different times.* The rent of the house was 6*l.* 6*s.* The pauper underlet one room communicating with the rest of the house by an inner door, and with the yard by an outer door. The rent of the garden was 3*l.* 15*s.* per annum, and it was occupied by the pauper himself. It was held, that although there was a separate taking of the house and of the land, that this was a tenement within the meaning of the above act; and secondly, that although one of the rooms was underlet, still the house continued to be the separate and distinct dwelling-house of the pauper, within the meaning of the statute. *Rex v. Inhabitants of North Collingham, E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports,* 578. 1 *Nolan's Poor Laws,* 65.

Pauper hiring a house at 10l. a year, and putting his furniture in worth 15l.

1281. The pauper hired a house for 10*l.* a year, and put into it his furniture, worth above 15*l.* and lived in it above a year. Having applied for relief, the parish officers were compelled by a magistrate's order to grant it. After the relief was granted, the landlord demanded his rent, but allowed the pauper a fortnight's time to pay it. Before that time expired, and before the rent was paid, the pauper was removed to another parish by an order of two justices. After he had been removed, he sold his furniture, and paid the year's rent. It was held, first, that the parish officers having been com-

pelled to grant relief, the pauper had thereby become actually chargeable, and was therefore removable under the 35 *Geo.* 3. *c.* 101, although he had resided above forty days on the tenement; and secondly, that at the time when the order of removal was made he had not gained a settlement in the removing parish, because he had not then paid a year's rent, as required by the 59 *Geo.* 3. *c.* 50. *Rex v. Ampthill, Bedfordshire, E.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 847.

As to the Nature of the Tenement under the 13 *and* 14 *Car.* 2. *c.* 12., *and* 9 *and* 10 *Will. c.* 11, *and how the Value is to be ascertained.*

The quantity of rent not material.

1282. The quantity of the rent is not material, but the value of the tenement, provided it is worth 10*l.* a year, for the settlement depends on the value and not the rent of the tenement. *South Sydenham in Lamerton* (*special case stated*), *T.* 3 *Geo.* 1. 1 *Sessions Cases,* 115. 1 *Strange's Reports,* 57. 2 *Bott,* 129. 2 *Nolan's Poor Laws,* 4. 27. 31. 39. (*But see pl.* 1280, *p.* 310).

Rent of 10l. given in contemplation of improvements by the landlord.

1283. If a rent of 10*l.* is given in contemplation of improvements to be made by the landlord, but which he never makes, and the house is thereby not worth so much rent, a settlement will not be gained by taking or paying that rent. *Rex v. Southwold, H.* 13 *Geo.* 2. 2 *Sessions Cases,* 198. 2 *Strange's Reports,* 1127. *Burrows' Settlement Cases,* 140. 2 *Bott,* 231. 2 *Nolan's Poor Laws,* 28, 3*d edit.*

Value of Stock on a Tenement not to be computed as Rent.

Value of stock does not alter the value of the tenement.

1284. The quantity of stock on a farm does not alter the value of the tenement. *Rex v. Weston, T.* 14 *and* 15 *Geo.* 2. 2 *Sessions Cases,* 141. 2 *Strange's Reports,* 1156. *Burrows' Settlement Cases,* 166. 1 *Bott,* 132. 2 *Nolan's Poor Laws,* 47, 3*d edit.*

Land taken ready sown.

1285. But if land is taken ready sown for a crop, its rent may be computed higher on that account. *Rex v. Purley, T.* 52 *Geo.* 2. 16 *East's Reports,* 126. *Bott continued to* 1814, 129. 2 *Nolan's Poor Laws,* 33.

Renting land improved in value.

1286. Renting land improved in value, from the landlord's having previously dug it for planting potatoes, and on that account let it at a much higher price, will confer a settlement. *Rex v. Ringwood, E.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports,* 381. *Bott continued to* 1814, 130. 2 *Nolan's Poor Laws,* 33.

Renting land ready ploughed and manured.

1287. Renting land for planting potatoes, where the pauper agreed to take the land of the landlord ready ploughed and manured, and when he entered upon it, it was quite prepared for planting. It was held to be a renting of land of a yearly value, as it was increased by being ploughed and manured by the landlord, although, when the pauper *took it,* the ploughing and manuring was begun, *but not finished. Rex v. West Cramore, M.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 132. *Bott continued to* 1814, 124. 2 *Nolan's Poor Laws,* 33.

Value beyond the rent paid.

1288. Evidence may be given of a value beyond the rent paid, and a good settlement may be gained. *Rex v. Bilsdale, Kirkham, North Riding of York.* 16 *Geo.* 3. 2 *Bott,* 137. 2 *Nolan's Poor Laws,* 33.

Furnished room with fire and candle.

1289. A furnished room, with fire and candle, rented by the week in the gross, is a tenement, and the sessions should find the value of the furniture distinct from that of the tenement. *Rex v. Whitechapel, H.* 26 *Geo.* 3. 2 *Bott,* 96. 2 *Nolan's Poor Laws,* 37. 41. 49.

The value of a chattel placed on land by the tenant cannot be added to the rent.

1290. If a post windmill (*or other chattel*) is placed upon land by the *tenant,* its value cannot be added to the rent of the land. *Rex v. Londonthorpe, T.* 35 *Geo.* 3. 6 *Term Reports,* 377. 2 *Bott,* 140. 2 *Nolan's Poor Laws,* 35.

The value of the tenement is to be estimated by its annual value to let by the year.

1291. It is not sufficient if the tenement only produce more than 10*l.* per annum, when let at 4*s.* per week. The value of the tenement is to be estimated by its annual value, *to be let by the year,* at the time of the party coming to settle upon it. *Rex v. Hellingly,*

T. 48 *Geo.* 3. 10 *East*, 41. *Bott continued to* 1814, 127.

1292. A contract of renting at 10*l.* per annum, the landlord paying parish taxes, is a good taking of a lease of a tenement, of the proper value within the act of 13 *and* 14 *Car.* 2. *c.* 12. *Rex v. Framlingham. T.* 13 *Geo.* 3. *Burrows' Settlement Cases*, 748. 2 *Bott*, 135. 2 *Nolan's Poor Laws*, 32. *Rex v. St. Paul, Deptford, H.* 51 *Geo.* 8. 13 *East's Reports*, 320. *Bott continued to* 1814, 128. 2 *Nolan's Poor Laws*, 29.

Renting, where the landlord pays taxes.

1293. An agreement in writing unstamped, for the letting a tenement at a rent certain having been lost, it was held, that parol evidence of its contents was not admissible, for the sake of proving the value of the tenement. *Rex v. Castle Morton, E.* 1 *Geo.* 4. 3 *Barnewall and Alderson*, 588.

If an agreement lost, parol evidence of its contents may be given.

1294. Magistrates will in future be relieved (by degrees) from attending to the conflicting testimony of surveyors and interested witnesses, as to proving the annual value of the premises in question, by the 6 *Geo.* 4. *c.* 57. by which it is enacted, that after the 22d June, 1825, "No person shall acquire a settlement in any parish or township maintaining its own poor by or by reason of settling upon, renting, or paying *parochial taxes*, for any tenement not being his or her own property, unless such tenement shall consist of a separate and distinct dwelling-house, or building, or of land, or of both, *bonâ fide* rented by such person in such parish or township, at and for the sum of 10*l.* a year at the least, for the term of one whole year; nor unless such house, or building, or land, shall be occupied under such yearly hiring, and the rent for the same to the amount of 10*l.* actually paid, for the term of one whole year at the least. And it shall not be necessary to prove the actual value of such tenement." (*See pl.* 1301, *post.*)

The effects of the 6 Geo. 4. c. 57, as to conflicting testimony of witnesses proving the value of the premises in question.

Divided Tenements.

1295. Renting a tenement at 6*l.* a year of one person, and a piece of land of another, of the yearly

Renting a tenement of one person and land of another.

sum of 8*l.*, it was held, that it was not necessary to satisfy the statute, that the renting should be of one person; therefore, renting a stable of one, and a tenement of another, will gain a settlement. *North Nibley v. Wotton-under-Edge, M.* 1 *Geo.* 1. *Cases in K. B. concerning the Poor,* 86. 1 *Sessions Cases,* 73. *Foley's Poor Laws,* 79. 2 *Bott,* 115. 2 *Nolan's Poor Laws,* 28. *Rex v. St. Margaret, Fish-street Hill, H.* 51 *Geo.* 3. *Burrows' Settlement Cases,* 677. 2 *Bott,* 120. 2 *Nolan's Poor Laws,* 11.

As to a tenement lying in different parishes.

1296. Renting a tenement of 10*l.* a year, being one entire tenement, but lying partly in one parish, and partly in another parish, will gain a settlement in that parish in which the house is situated. *South Sydenham v. Lancaster, T.* 3 *Geo.* 1. 1 *Strange's Reports,* 57. 1 *Sessions Cases,* 115. *Foley's Poor Laws,* 81. 2 *Bott,* 115. 2 *Nolan's Poor Laws,* 27. 31. *Elsted v. Hollibourne, M.* 3 *Geo.* 2. 2 *Sessions Cases,* 130. 2 *Strange,* 849. 2 *Bott,* 116. 2 *Nolan,* 27.

Renting distinct tenements, taken at different times in different parishes, neither of them amounting to 10*l.* a year.

1297. Renting distinct tenements, taken at different times in different parishes (neither of them a sum amounting to 10*l.* a year), will confer a settlement in the parish where the pauper lived. *Rex v. Sandwich, T.* 8 *Geo.* 2. *Burrows' Settlement Cases,* 44. 2 *Bott,* 117. 2 *Nolan's Poor Laws,* 28. *Rex v. Fritwell, E.* 37 *Geo.* 3. 7 *Term Reports,* 197. 2 *Bott,* 153. 2 *Nolan,* 40. 42. 61. *St. Lawrence v. St. Maurice, both in Winchester, E.* 8 *Geo.* 3. *Burrows,* 588. 2 *Bott,* 119.

Residing on a tenement, part given out of charity, and in another parish.

1298. Living upon a tenement of the value of 10*l.* a year, although a part thereof is given out of charity, and is in another parish, gains a settlement. *Rex v. Fillongley, M.* 27 *Geo.* 3. 1 *Term Reports,* 458. 2 *Bott,* 123. 2 *Nolan's Poor Laws,* 39.

Occupation as tenant cannot be coupled with occupation as landlord.

1299. Occupation as *tenant* in one parish cannot be coupled with an inhabitant as *landlord* in another parish, so as to give a settlement. *Rex v. South Bemfleet, H.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports,* 154. *Bott continued to* 1814, 126. 2 *Nolan's Poor Laws,* 29. 40. *Rex v. St. John's, Glastonbury, E.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 481.

1300. After 2d July, 1819, no settlement shall be gained, "unless the whole of the land shall be situate in the same parish, &c. as the house within which the person hiring such land shall dwell or inhabit." (*See pl.* 1279, *p.* 309, *ante.*) Land must be situate in the parish where the house is.

1301. And after 22d July 1825, "no settlement shall be acquired in any parish, by reason of settling upon, renting, or paying parochial taxes, not being his own property, unless such tenement shall consist of a separate and distinct dwelling-house or building, or of land, or of both, *bonâ fide* rented by such person, in such parish or township." 6 *Geo.* 4. *c.* 57. (*See pl.* 1294, *p.* 313, *ante.*)

Joint Occupation.

1302. Renting jointly a tenement for 16*l.* a year rent, which, when divided as to value between the tenants, will not produce 10*l.* a year for each tenant, will gain no settlement to either of the parties. *Marden v. Barham, M.* 25 *Geo.* 2. *Burrows' Settlement Cases,* 311. 2 *Bott,* 134. 2 *Nolan's Poor Laws,* 37. Renting a tenement, which, when divided between two, will not produce 10l. a year for each tenant.

1303. Renting jointly 52*l.* a year, gains a settlement; and where one originally takes a farm of that value, and then takes a partner, the latter will also gain a settlement. *Little Tew v. Duns Tew,* 29 *and* 30 *Geo.* 2. *Burrows' Settlement Cases,* 398. 2 *Bott,* 118. 2 *Nolan's Poor Laws,* 37. 49, 50. Renting jointly 52l. a year, both will gain a settlement.

1304. A joint partner with a person, of a farm of 176*l.* per annum, gains a settlement. *Rex v. Seamer, H.* 36 *Geo.* 3. 6 *Term Reports,* 554. 2 *Bott,* 127. 2 *Nolan's Poor Laws,* 49. A joint partner in a farm.

1305. Renting one entire tenement, and jointly part of another, will, if the whole be of sufficient value, gain a settlement. *Rex v. Tissington, E.* 33 *Geo.* 2. *Burrows' Settlement Cases,* 499. 2 *Bott,* 134. 2 *Nolan's Poor Laws,* 31. Renting one entire tenement and part of another jointly.

1306. Renting a farm of 11*l.* a year, and afterwards occupying it jointly with another person, does not prevent the original person taking the farm from Renting one and occupying jointly with another.

gaining a settlement. *Rex v. Newnham, T.* 13 *Geo.* 3. *Burrows' Settlement Cases,* 756. 2 *Bott,* 121. 2 *Nolan's Poor Laws,* 38. 55, 56.

A tenant renting and letting off part to under tenants.

1307. Renting 10*l.* a year, although part of it is let off afterwards by the tenant to under tenants, *gains a settlement. Rex v. Llandvenas, M.* 7 *Geo.* 3. *Burrows' Settlement Cases,* 571. 1 *Blackstone's Reports,* 603. 2 *Bott,* 134. 2 *Nolan's Poor Laws,* 61. (*See Rex v. North Collingham, pl.* 1280, *p.* 310. *See* 59 *Geo.* 3. *c.* 50. *pl.* 1279, *p.* 309, *and* 6 *Geo.* 4. *c.* 57. *pl.* 1294, *p.* 313, as to occupation.)

As to the Payment of Rent.

Renting a tenement with surety for the payment of the rent.

1308. The pauper took a lease of a windmill for five years, but had a surety who engaged to pay the rent for that time. It was held, that the parish officers had nothing to do with the fact of the giving the security, and therefore a settlement was gained. *Rex v. Butley, T.* 10 *and* 11 *Geo.* 2. *Burrows' Settlement Cases,* 107. 2 *Bott,* 93. 2 *Nolan's Poor Laws,* 43. *Rex v. Hood, M.* 44 *Geo.* 3. 4 *East's Reports,* 362. 2 *Bott,* 143. 2 *Nolan's Poor Laws,* 28. 43. 55.

The wife of a soldier (deserter) renting a tenement.

1309. A tenement taken by the wife of a soldier who had deserted, and who returns and remains *concealed* in the tenement for seven weeks. It was held, the husband coming into the parish was no more than a mere *intrusion* of a fugitive who is lurking in hiding places, and not a coming into the parish to settle *animo residendi,* and no settlement gained. *Rex v. Ashton-under-Lyne, M.* 56 *Geo.* 3. 4 *Maule and Selwyn's Reports,* 357.

Renting a tenement of 20*l.* a year, and residence forty days therein, sufficient to gain a settlement.

1310. In order to acquire a settlement by taking a tenement of 20*l.* a year, it is not absolutely necessary that there should be an express contract for the tenement; it is sufficient if the tenant resides forty days on a tenement of such a value, with the permission and consent of his landlord; for in such case, the law implies a contract. *Rex v. Netherseal, E.* 31 *Geo.* 3. 4 *Term Reports.* 2 *Bott,* 126. 2 *Nolan's Poor Laws,* 41.

Toll-keeper.

1311. A toll-keeper residing in the toll-house may gain a settlement *aliunde*, by renting a tenement of 10*l.* a year in the same parish where the toll-house is situated. *Rex v. Denbigh, T.* 44 *Geo.* 3. 5 *East's Reports*, 333. 2 *Bott*, 113. 2 *Nolan's Poor Laws*, 30.

Renting tolls and residing in the toll-house.

1312. A person renting the tolls, and residing in the turnpike-house, erected by order of the commissioners appointed by 30 *Geo.* 3. *c.* 67, for paving, lighting, and regulating the streets of *Durham*, and for other local objects, *cannot gain a settlement* in the parish by the general turnpike act. 13 *Geo.* 3. *c.* 84. *s.* 56*. *Rex v. Inhabitants of Elvet, E.* 49 *Geo.* 3. 11 *East's Reports*, 93. *Bott, continued to* 1814, 119. 2 *Nolan's Poor Laws*, 30.

Tolls of a bridge.

1313. Renting the tolls of a bridge, vested by act of parliament in a company of proprietors, will confer a settlement, though the tolls are made personal estate, and the renting is not stated to be by deed. The prohibition of the general turnpike act does not extend to the tolls of a bridge, which does not appear to be a part of the turnpike road. *Rex v. Bulbwith, E.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports*, 514. *Bott, continued to* 1814, 123. 2 *Nolan's Poor Laws*, 30.

Occupation of a toll-house and tolls of a bridge.

1314. The occupation of a toll-house and tolls of a bridge demised for a year by five members of a managing committee under their own seals, but not under the corporation seal; it was held *not to confer a settlement*, the annual value of the toll-house alone not exceeding 5*l.* *Rex v. North Duffield, M.* 55 *Geo.* 3. 3 *Maule and Selwyn's Reports*, 247. 2 *Nolan's Poor Laws*, 30.

A foreigner, not an alien enemy but an alien amy.

1315. A foreigner, not an alien *enemy* but an alien *amy*, may gain a settlement by renting a tenement of 10*l.* a year, though he may not take a lease of a tenement. *Rex v. Eastbourne, T.* 48 *Geo.* 3. 4 *East's Reports*, 103. 2 *Nolan's Poor Laws*, 134.

---

* *Which was repealed by the* 3 *Geo.* 4. *c.* 126.

A soldier whilst with his regiment.

1316. A soldier whilst his regiment lay in barracks at *B* took a house there for himself and family of the yearly value of 10*l*, and resided therein more than forty days; it was held that this was a coming to settle in a tenement, and that he thereby gained a settlement *. *Rex v. Brighthelmstone, H.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 270.

As to Time and Place.

Residing less than forty days.

1317. Less than forty days residence upon a tenement of 10*l*. a year will not gain a settlement. *Rex v. Dilwyn, T.* 8 *and* 9 *Geo.* 2. *Burrows' Settlement Cases,* 54. 2 *Nolan's Poor Laws,* 62.

A forcible removal within forty days.

1318. A person forcibly removed from his tenement within forty days will prevent his gaining a settlement. *Rex v. Llanbedergoch, H.* 37 *Geo.* 3. 7 *Term Reports,* 105. 2 *Bott,* 152. 2 *Nolan's Poor Laws,* 62.

Going to prison in a parish different from the parish where the tenement is, and not residing forty days.

1319. A person arrested and carried to prison in a parish different from that in which his tenement is, before he has completed forty days residence, *he gains no settlement* though his *family* reside for seven weeks. *Rex v. St. George the Martyr, Southwark, H.* 38 *Geo.* 3. 7 *Term Reports,* 466. 2 *Bott,* 154. 2 *Nolan's Poor Laws,* 62.

A residence by a widow on a tenement of 20l. a year value, cannot be coupled with a residence on the same tenement with her husband.

1320. A residence for thirty-three days by a widow on a tenement of 20*l*. a year, *cannot be coupled* with a residence on the same tenement with her husband for sixteen days preceding *so as to gain her a settlement. Rex v. Southhynn, T.* 34 *Geo.* 3. 5 *Term Reports,* 664. 2 *Bott,* 150. 2 *Nolan's Poor Laws,* 63.

---

* It is said that the mutiny act prevents a soldier from gaining a settlement, but that act contains no such express provision; the clause enabling any soldier to be examined as to his settlement, *does not disqualify him from obtaining a new one.*

1321. Where the tenant is in the rules of the *Fleet*, and he has in the same parish a tenement which he rents, he paying the rent, *he gains a settlement. St. Margaret, Westminster, v. Ludgate, H.* 5 *Geo.* 2. 2 *Barnadiston's Reports*, 476. 2 *Bott*, 93. 2 *Nolan's Poor Laws*, 62, 150. *But see the* 23 *Geo.* 3. *c.* 23. *s.* 1. *p.* 302. *pl.* 1236. *ante.* A tenant in the rules of the Fleet holding a tenement in the same parish.

1322. The residence must be in the parish where the tenement or some part of it lies. *Rex v. Topcroft, M.* 25 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 478. 2 *Bott*, 149. 2 *Nolan's Poor Laws*, 61. *Rex v. Knighton, T.* 27 *Geo.* 2. 2 *Term Reports*, 48. 2 *Bott*, 150. 2 *Nolan*, 61. Where the residence must be.

1323. A person renting a tenement in one parish and residing rent free in another, gains a settlement where he resides. *Rex v. Fritwell, E.* 37 *Geo.* 3. 7 *Term Reports*, 197. 2 *Bott*, 153. 2 *Nolan's Poor Laws*, 40. 42. 61. (*But see* 59 *Geo.* 3. *c.* 50. *p.* 302. *pl.* 1240. *ante, and* 6 *Geo.* 4. *c.* 57. *s.* 2. *p.* 303. *pl.* 1241. *ante.*) Renting in one parish and residing in another.

1324. Where a residence is in different parishes, and in one of them for forty days at different intervals, and the pauper sleeps there the last night, the settlement is gained where he sleeps the last night. *Rex v. St. Mary Lambeth, E.* 39 *Geo.* 3. 8 *Term Reports*, 240, 241. 2 *Bott*, 155. 2 *Nolan's Poor Laws*, 63. *Rex v. Lowess, E.* 16 *Geo.* 3. 2 *Bott*, 148. *Burrows' Settlement Cases*, 825. (*See Rex v. Ringwood, E.* 58 *Geo.* 3. 1 *Maule and Selwyn's Reports*, 381. *Bott, continued to* 1814, 130. 2 *Nolan*, 33.) Residence in different parishes, and in one of them for forty days, the settlement is where the pauper sleeps the last night.

1325. No settlement shall be gained after 2d July, 1819, unless the house or building shall be held, and the land occupied for the term of one whole year by the person hiring the same. 59 *Geo.* 3. *c.* 50. (*See p.* 309. *pl.* 1279. *ante.*) The tenement must be held for one whole year.

1326. A pauper does not gain a settlement by having hired a tenement of more than 10*l.* a year value, and having resided therein more than forty days altogether, but less than forty days before the passing of the above act. *Rex v. Inhabitants of St. Mary le Bow, T.* 2 *Geo.* 4. 4 *Barnewall and* Hiring a tenement for more than 10*l.* a year, and residing more than forty days, but less than forty days before the 2d July, 1819.

Alderson's Reports, 681. 2 *Nolan's Poor Laws*, 65. (*See the act* 59 *Geo.* 3. *c.* 12. *s.* 11.)

The tenement must, after the 22d June, 1825, be rented at 10*l.* a year, &c.

1327. Nor shall any settlement be acquired after the 22d June, 1825, unless the house, or building, or land, shall be rented at 10*l.* a year at the least for one whole year, and occupied under a hiring for one whole year, and the rent to the amount of 10*l.* *actually* paid for one whole year at the least, and it shall not be necessary to prove the *actual* value. 6 *Geo.* 4. *c.* 57. (*See p.* 313. *pl.* 1294. *ante.*)

As to the Time for which the Contract is made.

As to time and value.

1328. The statute does not say for what *time* the tenement shall be rented, but only of what *value* it shall be by the year.

Taking a tenement for eight months.

1329. Taking a tenement for eight months will gain a settlement, there being also a forty days residence. *Rex v. Shenstone, E.* 32 *Geo.* 2. *Burrows' Settlement Cases*, 474. 2 *Bott*, 141. 2 *Nolan's Poor Laws*, 48. *Staunton under Bardon v. Ulescroft, H.* 6 *Geo.* 3. *Burrows' Settlement Cases*, 558. 2 *Bott*, 142. 2 *Nolan*, 48. *St. Matthew's Bethnal Green v. St. Botolph Aldgate, H.* 7 *Geo.* 3. *Burrows*, 574. 2 *Bott*, 135. 2 *Nolan*, 48.

Removal will not put an end to the contract.

1330. Removal under an order will not put an end to a contract for renting; and a pauper returning after execution of an order of removal to his tenement, under such contract may gain a settlement thereby. *Rex v. Filloughley, M.* 29 *Geo.* 3. 2 *Term Reports*, 709. 2 *Bott*, 693. 2 *Nolan's Poor Laws*, 142. 147. 254.

The hiring after July, 1819, must be for a year.

1331. No settlement shall be gained after 2d July, 1819, unless the tenement shall have been *bonâ fide* hired for one whole year. 59 *Geo.* 3. *c.* 50. (*This act, so far as relates to gaining a settlement by renting a tenement, is repealed by* 6 *Geo.* 4. *c.* 57.)

How, after the 22d July, 1825.

1332. And now, no settlement can be acquired after 22d July, 1825, by any person, by reason of settling upon, *renting*, or paying parochial taxes for any

tenement not being his own property, unless the tenement shall consist of a separate and distinct dwelling-house or building, or land, or of both, *bonâ fide* rented by such person, in such parish or township, at 10*l.* a year at the least for one whole year; nor unless such house, &c. shall be *occupied* under such *yearly hiring*, and the rent *actually* paid for one whole at the least. 6 *Geo.* 4. *c.* 57. (*See p.* 313. *pl.* 1294)

Fraudulently gaining a Settlement.

Fraudulently taking.

1333. Taking land without stocking it is deemed fraudulent, and *no settlement* is gained; the court will never presume fraud, because it is so stated. *Rex v. Woodland, E.* 26 *Geo.* 3. 1 *Term Reports*, 261. 2 *Bott*, 139. 2 *Nolan's Poor Laws*, 54. *Rex v. Filloughley, M.* 29 *Geo.* 3. 2 *Term Reports*, 709. 2 *Bott*, 693. 2 *Nolan's Poor Laws*, 461, 3*d edit.* *See Rex v. Llanbedergoch.* (*p.* 318. *pl.* 1318, *ante.*)

As to Settlements by Estate.

Purchase of an estate under 30l. by 9 Geo. 1. c. 7. s. 5.

1334. After the 25th March, 1723, no person to be deemed, adjudged, or taken, to gain a settlement in any parish or place, for or by virtue of any purchase of any estate or interest in such parish, &c. where the purchase money does not amount to 30*l.*, *bonâ fide* paid, for any longer or further time than such person shall inhabit such estate, and shall then be liable to be removed to his last legal settlement before the purchase thereof, and inhabitancy therein. 9 *Geo.* 1. *c.* 7. *s.* 5. (*See pl.* 1371, *p.* 329, *post.*)

As to Value of the Estate.

As to the value of the estate.

1335. The estate need not be of the value of 10*l.* per annum; if it is for life, inheritance, or copyhold, the party cannot be removed, and therefore

gains a settlement. Harrow v. Edgeware, E. 11 *Anne. Foley's Poor Laws,* 257. 2 *Bott,* 457. 2 *Nolan's Poor Laws,* 71. *See Rex v. West Shefford, M.* 25 *Geo.* 2. *Burrows' Settlement Cases,* 307. 2 *Bott,* 515. 2 *Nolan's Poor Laws,* 3. 115.

As to Infants.

An infant eight years old, residing on its own estate.

1336. An infant eight years old, residing in a parish in which it has an estate of its own, is *immovable,* and may gain a settlement by residence. *Rex v. Hasfield, E.* 13 *Geo.* 2. 2 *Strange's Reports,* 1131. *Burrows' Settlement Cases,* 147. 2 *Bott,* 462. 2 *Nolan's Poor Laws,* 62. 89. 134. *See Rex v. Houghton le Spring, H.* 41 *Geo.* 3. 1 *East's Reports,* 247. 2 *Bott,* 576. 2 *Nolan's Poor Laws,* 98.

As to Executors and Administrators.

An executor may gain a settlement as executor.

1337. An executor shall gain a settlement by residence as *executor* on a leasehold estate. *Rex v. Sundrish, T.* 7 *Geo.* 2. 1 *Sessions Cases,* 200. 2 *Strange's Reports,* 983. *Burrows' Settlement Cases,* 7. 2 *Bott,* 460. 2 *Nolan's Poor Laws,* 2. 78. (*See pl.* 1342 *and* 1343, *post.*)

As to next of Kin.

No right until letters of administration.

1338. No right is vested in the next of kin of a person who dies intestate, until letters of administration are taken out. *South Sydenham v. Lamerton, E.* 3 *Geo.* 1. *Cases in the K. B. concerning Poor,* 103. 2 *Bott,* 461. 2 *Nolan's Poor Laws,* 72. 95, 96.

Next of kin in equal degrees.

1339. Where there are two next of kin in equal degrees, and the father, being possessed of the residue of a term, dies intestate, and after an order of removal made for one, *he takes out letters of adminis-*

tration, he cannot have a settlement by virtue of the letters of administration. Whilst the term subsisted, not having taken out administration, he was in possession merely as a tenant at will, and removable. *Rex v. Widworthy, T.* 10 *Geo.* 2. *Andrews' Reports*, 4. *Burrows' Settlement Cases*, 109. 2 *Bott*, 461. 2 *Nolan's Poor Laws*, 72. 95, 96.

Widow and children.

1340. Where a wife and two children survive the intestate, the wife cannot gain a settlement by letters of administration, taken out after assignment by her of the intestate's term. As the children were entitled to two-thirds of the effects, the widow was not the sole next of kin. *Rex v. North Curry, M.* 22 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 137. 2 *Bott*, 477. 2 *Nolan's Poor Laws*, 96.

Husband of administratrix.

1341. The husband of an administratrix entitled to the trust of a term, only gains a settlement by residence there, for forty days. *Mursley v. Grandborough.* 4 *Geo.* 1. 1 *Strange's Reports*, 91. 1 *Cases in K. B. concerning the Poor*, 122. 2 *Bott*, 459. 2 *Nolan's Poor Laws*, 2. 71. 80. 89.

Coming to a tenement by executorship.

1342. Coming to a tenement by executorship, although under 10*l.* a year, *gains a settlement*. *Rex v. Uttoxeter, T.* 5 *Geo.* 3. *Burrows' Settlement Cases*, 538. 2 *Bott*, 469. 2 *Nolan's Poor Laws*, 2. 69. 71. 79. 107. (*See pl.* 1337, *preceding page.*)

Executor to a tenant of an estate under 10l. a year.

1343. The executor to a tenant of an estate under 10*l.* a year, *gains a settlement* by forty days residence, although he does *not* prove the will. *Rex v. Stone, E.* 35 *Geo.* 3. 6 *Term Reports*, 295. 2 *Bott*, 493. 2 *Nolan's Poor Laws*, 2. 3. 71. 79. 105.

Sole next of kin, and administration after forty days' residence.

1344. A sole next of kin, taking out of administration, after the expiration of the forty days' residence, *gains a settlement*. *Rex v. Horsley, E.* 47 *Geo.* 3. 8 *East's Reports*, 405. *Bott, continued to* 1814, 164. 2 *Nolan's Poor Laws*, 95. 97. 116.

A devise to the use of trustees, for the benefit of a brother and his family.

1345. A devise to the use of trustees in fee, in trust, (after payment of debts), to receive the rents for the benefit of her brother, M. S., his wife and children, all, or any of them, during his life, as they should think proper, and after his death, in trust for her nephew, &c. It was held, that M. S., who,

after the death of the testatrix, by permission of the trustees, occupied until his death a cottage in the township where the lands devised were situated, *did not acquire a settlement* thereby, the rents and profits of the lands having been insufficient to pay testatrix's debts; and M. S., at the testatrix's decease, and from that time until his own death, being an *uncertificated* bankrupt. *Rex v. Inhabitants of Darlington, M.* 57 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 493. 2 *Nolan's Poor Laws,* 99.

Widow having right of dower, and residing on the estate.

1346. A widow having right of dower, although not set out, *gains a settlement* by residing upon the estate; but the second husband gains no settlement, though he resides with her. *Rex v. Painswick, E.* 14 *Geo.* 3. *Burrows' Settlement Cases,* 783. 2 *Bott,* 474. 2 *Nolan's Poor Laws,* 72. 94.

The interest of a widow before assignment of dower.

1347. A widow, before assignment of dower, has not such an interest in the land of which she is dowable, as to be immovable from the parish in which the land lies. *Rex v. Northweald Bassett, E.* 5 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 724. 2 *Nolan's Poor Laws,* 94. 97. 157.

Joint Tenants, Trusts, Estates vested in the Husband by Marriage, Guardian in Socage, &c.

Estate devised to a wife during widowhood.

1348. If an estate is devised to a wife during widowhood, and then to be sold for the benefit of the children, and one of them marries, and then the testator, and after the widow dies, and the married child continues to live therein, *a settlement is gained. Rex v. Natland, E.* 14 *Geo.* 3. *Burrows' Settlement Cases,* 793. 2 *Nolan's Poor Laws,* 88, 89.

An estate vested in trustees for the use of a wife.

1349. Where an estate is vested in trustees, for the separate use of the wife, the husband *may gain a settlement* by residence upon it. *Rex v. Offchurch, H.* 29 *Geo.* 3. 3 *Term Reports,* 114. 2 *Bott,* 487. 2 *Nolan's Poor Laws,* 92. 95, 96.

Freehold estate descends to wife and sisters as co-partners.

1350. A freehold estate in the parish in which the pauper lived, descended to his wife and her sisters as co-partners; in a month after, he and his wife

contracted to sell their share, but the conveyance was not executed for more than forty days after their title had accrued. It was held, that by *residence* in the parish (*without occupation*), he *gained a settlement*. *Rex v. Dorstone, H.* 41 *Geo.* 3. 1 *East's Reports*, 296. 2 *Bott*, 523. 2 *Nolan's Poor Laws*, 104. 107.

A freehold estate subject to 1000 years' lease at a peppercorn rent.

1351. Forty days' residence in a parish where a pauper has a freehold estate, although subject to a lease for 1000 years at a peppercorn rent, is sufficient *to gain a settlement*. *Rex v. Staplegrove.* 2 *Barnewall and Alderson's Reports*, 527.

Pauper residing on such an estate claiming right for four years.

1352. Where a pauper came to reside on *such an estate*, claiming a right, and continuing in *uninterrupted occupation* for four years, there being no fraud in the party claiming, the pauper was considered by the court as *not* coming into the parish with any of the *motives* which the 13 and 14 of *Car.* 2. *c.* 12 was intended to *restrain*. *Settlement Cases.*

An estate purchased by husband for less than 30*l.* An estate settled after marriage to wife's use.

1353. An estate purchased by the husband for less than 30*l.*, and *after marriage* settled in trust to wife's use, *does not give the husband a settlement*. *Rex v. Tarrant Launceston, H.* 43 *Geo.* 3. 3 *East's Reports*, 226. 2 *Bott*, 499. 2 *Nolan's Poor Laws*, 78. 81. 85. 89. 99.

Guardian in socage residing on ward's estate.

1354. A guardian in socage*, residing on the ward's estate for forty days, *gains a settlement* in the parish, and he cannot be removed from the possession of it *at any time*. *Rex v. Oakley, H.* 49 *Geo.* 3. 10 *East's Reports*, 491. *Bott, continued to* 1814, 166. 2 *Nolan's Poor Laws*, 79. 90. 105.

The mother of an infant copyholder legal guardian of the copyhold.

1355. A mother of an infant copyholder held to be the legal guardian of the copyhold, (there being

* It was considered by the court, in Osborne v. Carden (*Plowden's Reports*, 293), that *the whole estate and interest* of the lands is in the guardian in socage (during guardianship), to the *use* of the infant. And in Balell v. Constable, (*Vaughan's Reports*, 182, 183), he is said to have an *interest*, and not merely a naked authority, though it be an interest joined with a trust for his ward.

no custom of the manor for appointing one), and therefore entitled to reside *immovably* on the estate. *Rex v. Wilby, E.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports*, 504. 2 *Nolan's Poor Laws*, 105.

No guardian in socage of an equitable estate.

1356. There cannot be a guardian in socage of an equitable estate; and therefore where a pauper married the widow of a man who had paid for and been let into possession of a freehold cottage, and died leaving a daughter, but without having had any legal conveyance executed to him in his lifetime. It was held, that the pauper's residence in the cottage for forty days *did not confer* a settlement on him, the widow not being guardian in socage to the daughter. *Rex v. Toddington, E.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports*, 560. 2 *Nolan's Poor Laws*, 100.

Lease granted by a lord of a manor for thirty-one years. Administration to the widow, and residence in the cottage.

1357. The lord of a manor granted a lease of cottage for thirty-one years, to A., who resided in it above a year, and died, leaving a widow and three daughters; administration was granted to the widow, but no distribution of the estate was made. After his death, and by her permission, one of the daughters and her husband resided in it for some years. It was held, that the daughter, or her husband in her right, had not any equitable estate in the cottage, and that *no settlement* was gained by such residence. *Rex v. Inhabitants of Berkswell, E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports*, 542. 2 *Nolan's Poor Laws*, 103.

Purchase of an estate for less than 30*l.* by a woman before marriage.

1358. A woman before marriage purchases a leasehold estate under 30*l.*; her husband after marriage resides on the premises, he thereby *gains a settlement*, and the settlement so gained will be *communicated* to her. *Rex v. Ilmington, T.* 6 *Geo.* 3. *Burrows' Settlement Cases*, 566. 1 *Blackstone's Reports*, 598. 2 *Bott*, 471. 2 *Nolan's Poor Laws*, 80.

A cottage devised with liberty for the paupers to dwell in it during their lives, gains a settlement.

1359. A leasehold cottage *devised* to A. P., with liberty to the paupers to dwell therein *during their lives;* it was held, that the paupers by such residence under the will *gained a settlement. Rex v. Wobourn, E.* 14 *Geo.* 3. *Burrows' Settlement Cases*, 785. 2 *Bott*, 474. 2 *Nolan's Poor Laws*, 79.

A schoolmaster residing forty

1360. A schoolmaster in the occupation of a

schoolhouse, &c. under trustees created by will, and directed to appoint the schoolmaster; it was held, that he had a life interest therein, *and gained* a settlement by forty days' residence. *Rex v. Owersby-le-Moor, E.* 52 *Geo.* 3. 15 *East's Reports*, 356. *Bott, continued to* 1814. 2 *Nolan's Poor Laws*, 71. 88. forty days in schoolhouse.

As to Estates gained wrongfully, or by imperfect Contracts.

1361. Living in a cottage which came to the pauper by descent, *gains a settlement*, though the pauper's father built the cottage upon the waste, without the consent of the lord of the manor; *justices of the peace cannot examine into, or determine a man's title to his estate. Ashbrittle v. Wyley, M.* 11 *Geo.* 3. 2 *Sessions Cases*, 115. 1 *Strange's Reports*, 608. 2 *Bott*, 460. 2 *Nolan's Poor Laws*, 73. 81, 82. Living in a cottage which came by descent to the pauper.

1362. Living in a cottage built without the consent of the lord of the manor, *gains a settlement. Rex v. Bitton, M.* 9 *Geo.* 3. *Burrows' Settlement Cases*, 631. 2 *Bott*, 472. 2 *Nolan's Poor Laws*, 83. Living in a cottage built without consent of the lord of the manor.

1363. A cottage built on the waste by the pauper's father above seventy years back; the pauper resided there upon his father's death, and paid 2*s.* 6*d.* acknowledgment to the lord of the manor for the last thirty years, but the father had not paid any such acknowledgment. It was held, that the pauper *gained* a settlement. *Rex v. Garway, M.* 8 *Geo.* 3. *Burrows' Settlement Cases*, 632. 2 *Bott*, 471. 2 *Nolan's Poor Laws*, 73. Cottage built on waste, occupied by pauper for thirty years.

1364. A son borrowed money of his father to purchase land, on condition by parol to build a house thereon, which the father and mother were to have during their lives. The house was built, and the father lived in it three years rent free, and died. It was held, that the father had no *legal* or *equitable* estate in the house, and *gained no settlement* by the occupation, and that the mother was not entitled to House built with borrowed money for the residence of father and mother.

reside in it irremovably. *Rex v. Standon, E.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports*, 461.

Son built a house on land given to him by his father.

1365. A son builds a house on land given him (*by parol*) by his father, and continues in possession of it for thirty years without paying any rent or acknowledgment, sometimes residing in the house with his family, and at other times letting it, and receiving the rent. It was held, that the grandson (*the pauper*), who ceased to be a part of his father's family *fifteen* years after the building of the house, was entitled to the settlement which the father gained by residing in the house. *Rex v. Calow, T.* 54 *Geo.* 3. 3 *Maule and Selwyn's Reports*, 22. 2 *Nolan's Poor Laws*, 84.

As to Profits partaking of the Realty.

Living on a leasehold estate, having a rent charge thereout.

1366. Living upon a leasehold estate, out of which and other personal property, the person has a rent charge only, *gains no settlement. Rex v. Stockley Pomroy, H.* 14 *Geo.* 3. *Burrows' Settlement Cases*, 762. 2 *Bott*, 473. 2 *Nolan's Poor Laws*, 70. *Rex v. Melbourne, E.* 18 *Geo.* 2. *Burrows*, 244. 2 *Bott*, 162. 2 *Nolan*, 71.

Right of stinted common of pasture.

1367. Right of stinted common of pasture to cut peat and get limestone during residence of a freeman, never exercised; it was held not to amount to such an estate as will render the party irremovable. *Rex v. Warkworth, E.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports*, 473. *Bott, continued to* 1814, 174. 2 *Nolan's Poor Laws*, 22. 158.

As to Mortgages.

Estate conveyed to trustees to be sold.

1368. An estate conveyed to trustees, to be sold to pay mortgages and other debts, *will not give* to the person conveying it *a settlement* by a subsequent residence till *actually* sold. But a mortgager and a mortgagee in possession may *gain a settlement. Rex*

Mortgager and mortgagee in possession.

v. St. Michael, Bath, E. 21 *Geo.* 3. *Douglass's Reports,* 630. *Caldecott's Reports of Settlement Cases,* 110. 2 *Bott,* 475. 2 *Nolan's Poor Laws,* 53. 85. 98.

Mortgager living on the mortgaged premises.

1369. A mortgager living on the mortgaged premises, but not in possession as owner, *gains no settlement.* But an equitable title is sufficient to give a settlement; but in this case the party had neither *jus in re* nor *ad rem.* *See Rex v. St. Michael, Bath, above. Rex v. Catherington, T.* 30 *Geo.* 3. 3 *Term Reports,* 771. 2 *Bott,* 489. 2 *Nolan's Poor Laws,* 85. 98.

Cottage leased for years determinable on lives, conveyed by a woman and her husband in mortgage.

1370. If a cottage is leased for years determinable on lives, and is conveyed by a woman and her husband in trust, to raise money by sale or mortgage, with a clause for re-assignment, and the parties continue in possession, and the husband die, and the wife marries a second husband, she retaining the possession; the second husband will *gain a settlement* by forty days' residence, though the money does not appear to have been paid. *Rex v. Edington, H.* 41 *Geo.* 3. 1 *East's Reports,* 288. 2 *Bott,* 496. 2 *Nolan's Poor Laws,* 85.

As to Estates by Purchase.

Purchase of an estate under 30*l.*

1371. After 25th March, 1723, "*No person shall be deemed adjudged, or taken to acquire or gain any settlement in any parish, &c. for or by virtue of any purchase of any estate or investment in such parish, &c. where the consideration doth not exceed* 30*l. bonâ fide paid for any longer or shorter time than such person shall inhabit on such estate, and shall then be liable to be removed to the place of his last legal settlement before the purchase and inhabitancy thereof.*" 9 *Geo.* 1. *c.* 27. *s.* 5. (*See pl.* 1334, *p.* 321, *ante.*)

Children residing with their father on a purchase under 30*l.*

1372. Children residing with their father, upon a tenement purchased by him for less than 30*l.*, *gain no settlement by such residence. Rex v. Salford, H.* 4 *Geo.* 3. *Burrows' Settlement Cases,* 516. 1 *Blackstone's Reports,* 433.

Surrender of copyhold tenement by father to son.

1373. A surrender of a copyhold tenement under 30*l.* value by the father to his son; the son *gains no settlement* by residence thereon. *Rex v. Sawbridgeworth, H.* 3 *Geo.* 2. 2 *Sessions Cases,* 131. 1 *Barnardiston's Reports,* 297. *Burrows' Settlement Cases,* 56. 2 *Bott,* 489 (*n*). 2 *Nolan's Poor Laws,* 74.

Conveyance from father to daughter in consideration of natural affection.

1374. A conveyance from a father to his daughter, in consideration of natural love and affection, without any pecuniary consideration being paid, is sufficient *to gain her husband a settlement. Rex v. Marwood, H.* 29 *Geo.* 2. *Burrows' Settlement Cases,* 336. 2 *Bott,* 464. 2 *Nolan's Poor Laws,* 74. 80. *Rex v. Ingleton, E.* 6 *Geo.* 3. *Burrows,* 508. 2 *Bott,* 470. 2 *Nolan's Poor Laws,* 74. 187.

Conveyance from father to son in consideration of natural affection, and 10*l.* in money.

1375. A conveyance from a father to a son, in consideration of natural love and affection, and of 10*l.*, *gains a settlement,* when the real value of the estate is more than 10*l. Rev v. Ufton, E.* 29 *Geo.* 3. 3 *Term Reports,* 251. 2 *Bott,* 488. 2 *Nolan's Poor Laws,* 75. 77.

Grant of waste land under 30*l.* value.

1376. A grant of waste land by a lord of a manor under 30*l.* value, the fine being 1*s.*, hereit 1*s.*, and quit-rent 1*s.*, will *not give a settlement. Rex v. Warblington, E.* 26 *Geo.* 3. 1 *Term Reports,* 241. 2 *Bott,* 483. 2 *Nolan's Poor Laws,* 75. 77. 78. 92. 109.

New grant of copyhold where there is no custom.

1377. Where there is no custom for that purpose, the lord of the manor cannot make a new grant of copyhold; and, if he does, the grantee acquires no settlement by it. But a grant by the lord of copyhold land paying 2*s.* 6*d.* rent, (which rent, in a subsequent part, was called a quit-rent), is a purchase within the 9 *Geo.* 1. *c.* 7.; and under 30*l.* value confers no settlement. *Rex v. Hornchurch, M.* 59 *Geo.* 3. *Barnewall and Alderson's Reports,* 189. 2 *Nolan's Poor Laws,* 109.

Grant of copyhold (paying rent) under 30*l.* value.

House built on the waste, by licence from the lord, sold for 30*l.*, at 1*s.* per annum rent.

1378. A. built a house on the waste of a manor, by licence from the lord; E. resided in it two years, and then sold it to B. B. sold it to C. for 30*l.*, but no conveyance was executed. C. resided in it five years, and paid 1*s.* per annum rent to the lord, and then sold

his interest; no adverse claim was made. It was held, that though C. paid a consideration of 30*l.* when he purchased B.'s interest, he did *not acquire* by purchase an interest or estate sufficient to confer a settlement within the 9 *Geo.* 1. *c.* 7. *s.* 5. *Rex v. Inhabitants of Hagworthingham, E.* 4 *Geo.* 4. 1 *Barnewall and Creswell's Reports*, 634. 2 *Nolan's Poor Laws*, 93.

1379. A person resident on an estate granted him for lives, in consideration of 2*l.* 2*s.* price, and 1*s.* rent, *cannot be removed* therefrom, though he has applied for relief, and is thereby *actually* chargeable. But it is an estate within the stat. of *Geo.* 1. *c.* 7. *s.* 5. under 30*l.* consideration. *Rex v. Martley, E.* 44 *Geo.* 3. 5 *East's Reports*, 40. 2 *Bott*, 501. 2 *Nolan's Poor Laws*, 110. Residing on an estate granted for lives, for a consideration and quit-rent.

1380. A purchase of 30*l.*, part of which was paid by the parish officers of another parish, is not taken to be fraudulent unless so stated. *St. Paul's Wardon v. Kempton, E.* 13 *Geo.* 1. *Foley's Poor Laws*, 238. 2 *Bott*, 504. 2 *Nolan's Poor Laws*, 111. Purchase of 30*l.*, part of which paid by the officers of another parish.

1381. A purchase for 39*l.*, though 30*l.* thereof was borrowed on mortgage of the premises, *gains a settlement. Rex v. Tedford, T.* 8 *and* 9 *Geo.* 2. *Burrows' Settlement Cases*, 57. 2 *Bott*, 505. 2 *Nolan's Poor Laws*, 112. A purchase for 39*l.*, 30*l.* of which was borrowed.

1382. A purchase of a cottage for 60*l*, which was then mortgaged for 50*l.*, and payment afterwards of that 50*l.* by means of borrowing the same, *will gain* a settlement, though the estate is mortgaged for the 50*l.* the same day. *Rex v. Chailey, T.* 36 *Geo.* 3. 6 *Term Reports*, 755. 2 *Bott*, 512. 2 *Nolan's Poor Laws*, 111. Purchase of a cottage in mortgage afterwards paid by borrowing the money.

1383. A purchase for 39*l.* 17*s.* 6*d.*, the premises being then mortgaged for 32*l.*, which was never paid, is a purchase only for 7*l.* 17*s.* 6*d. bonâ fide* paid, and gains *no settlement. Rex v. Mattingley, T.* 27 *Geo.* 3. 2 *Term Reports*, 12. 2 *Bott*, 508. 2 *Nolan's Poor Laws*, 114. A purchase of premises for 39*l.* 17*s.* 6*d.*, 32*l.* of which was never paid.

1384. Where the pauper purchased a messuage for 52*l.*, of which 40*l.* was secured by mortgage to the Purchase for 52*l.*, 40*l.* of which secured by mortgage to the vender, and afterwards sold for 60*l.*

out of his own, be it never so small, notwithstanding the statute of 9 *and* 10 *W.* 3. *c.* 11. (*See Rex v. Aythorp, pl.* 1388. *preceding page.*) *Burclear v. East Woodhay, E.* 5 *Geo.* 1. *Cases in K. B. concerning Poor,* 121. 1 *Strange's Reports,* 163. *Burrows' Settlement Cases,* 221. 2 *Bott,* 525. 2 *Nolan's Poor Laws,* 186.

Settlement when pauper not removable for forty days.

1391. A *servant* not removable for forty days, gains *no* settlement, unless he serves out his year; a bastard with its mother for nurture for forty days, doth not thereby acquire a settlement. A *wife* residing upon her husband's estate, so a *certificated person,* or one residing *on a purchase under the value of* 30*l.*, and not actually chargeable though they are irremovable, yet by *such residence* they gain *no settlement.* (*Note,* 4 *Burn, p.* 652.)

An apprentice to a certificated man may gain a settlement in forty days' residence.

1392. A certificated man makes a purchase, and his *apprentice* lives with him for above forty days on the purchased estate. The apprentice gains a settlement thereby; for where a certificated person makes a purchase, he ceases to be there in the nature of a certificated man, and becomes a settled inhabitant, and his apprentice with him. *Ivinghoe v. Stonebridge, H.* 8 *Geo.* 1. 1 *Strange's Reports,* 266. 2 *Bott,* 526. 2 *Nolan's Poor Laws,* 7. 187.

Where leasehold is purchased, and descends to a certificated person.

1393. So where the property purchased is leasehold, and *descends* to a certificated person, gains a settlement, because it is by operation of law, and not by any act of his own. *Rex v. Stanfield, E.* 16 *Geo.* 2. 1 *Sessions Cases,* 316. *Burrows' Settlement Cases,* 205. 2 *Bott,* 526. 2 *Nolan's Poor Laws,* 2, 3, 187. *Rex v. Deddington, T.* 16 *Geo.* 2. 2 *Strange,* 1193. *Burrows' Settlement Cases,* 220. 2 *Bott,* 528. 2 *Nolan's Poor Laws,* 187.

Twenty years' possession by a certificated person.

1394. A settlement may be gained by a certificated person who has had twenty years' possession, for he has acquired by length of possession such a right as he is not removable from, nor his next of kin. *Rex v. Cold Ashton, H.* 31 *Geo.* 2. *Burrows' Settlement Cases,* 444. 2 *Bott,* 530. 2 *Nolan's Poor Laws,* 71. 82.

1395. And so where an estate is devised to the

wife of a certificated man. *Rex v. Shenstone, M.* 32 *Geo.* 2. *Burrows' Settlement Cases,* 468. 2 *Bott,* 467. 2 *Nolan's Poor Laws,* 78. 187. An estate devised to the wife of a certificated person.

As to Residence upon a Man's own Estate.

1396. A man having land in a parish will *not* make a settlement, but living in a parish where he has land, *will* gain a settlement without notice. *Ryslip v. Harrow, H.* 8 *W.* 3. 2 *Salkeld's Reports,* 524. 2 *Bott,* 513. 2 *Nolan's Poor Laws,* 69. 73 *Wookey v. Hinton Blewet, M.* 8 *Geo.* 1. 1 *Strange's Reports,* 476. 2 *Bott,* 513. 2 *Nolan's Poor Laws,* 60. 115. A man living in a parish where he has land.

1397. Where a husband ran away, and it was not known whether he was dead or alive; in the mean time the wife had a house in *N. C.* devised to her, and she and her children go to live there, and continue therein forty days. It was held, as it was not known that the husband was dead, he must be supposed to be alive, and the wife *cannot gain* a settlement for herself, *but must follow that of her husband,* and that the husband not having resided forty days in *N. C.* in the house unremovable, he had gained *no* settlement there. *Berkhampstead v. St. Mary, North Church, E.* 8 *Geo.* 2. 2 *Sessions Cases,* 182. 2 *Bott,* 25. 2 *Nolan's Poor Laws,* 158. Husband running away, wife having a house devised to her.

1398. The residence upon the same estate is not necessary, provided it is in the same parish; nor is it necessary that the residence should be for *forty days successively. Rex v. Sowton, H.* 12 *Geo.* 2. 2 *Sessions Cases,* 150. 19 *Viner's Abridgment,* 374. *Burrows' Settlement Cases,* 125. 2 *Bott,* 513. 2 *Nolan's Poor Laws,* 116. *Rex v. St. Nyott's, T.* 13 *Geo.* 3. *Burrows,* 132. 2 *Bott,* 514. 2 *Nolan,* 115, 116. Residence upon the same estate is not necessary.

1399. Residence in the parish where the estate is, is sufficient; even though the estate be leased, and the owner reside forty days upon it by leave of the lessee for the purpose of making repairs. *Rex v. Houghton-le-Spring, H.* 41 *Geo.* 3. 1 *East's Re-* Residence in the parish where the estate is situated.

ports, 247. 2 *Bott*, 576. 2 *Nolan's Poor Laws*, 98. (*See pl.* 1396. *preceding page.*)

As to what Office will confer a Settlement.

Serving a public annual office.

1400. If any person coming to inhabit in any town or parish, shall for himself, and on his own account, execute any *public annual office or charge* in the said town or parish*, during one whole year, he shall be adjudged and deemed to have a legal settlement in the same. 3 *and* 4 *W. and M. c.* 11. *s.* 6.

By taking a lease.

1401. No person who shall come into any parish by certificate shall be adjudged by any act *whatsoever*, to have procured a legal settlement in such parish, unless he shall *really* and *bonâ fide* take a lease of a tenement of the value of 10*l.*, or shall *execute some annual office* in such parish, being legally placed in such office. 9 *and* 10 *W.* 3. *c.* 11.

Serving as deputy to another.

1402. A person sworn, and serving the office of constable or tithing-man, &c. as deputy to another, does not thereby *gain a settlement*. 19 *Viner's Abridgment. Lothsome v. Sheriff Hales.* 1 *Nolan's Poor Laws*, 560. *Rex v. Winterbourn, H.* 4 *Geo.* 3. *Burrows' Settlement Cases*, 520. 1 *Blackstone's Reports*, 452. 2 *Bott*, 163. 1 *Nolan's Poor Laws*, 552. 559, 3*d edit. Rex v. Alleaning's, H.* 9 *Geo.* 3. *Burrows*, 634. 2 *Bott*, 164. 1 *Nolan*, 556, 3*d edit.*

Constable serving by a deputy.

1403. A person chosen and sworn into the office of petty constable, not serving the office himself, but hiring another to serve as his deputy, *gains a settlement. Rex v. Hope, Mansell, E.* 23 *Geo* 3. *Caldecott's Reports of Settlement Cases*, 252. 2 *Bott*, 166. 1 *Nolan's Poor Laws*, 561, 3*d edit.*

Parish clerk.

1404. A *parish clerk* † chosen by the parson who

---

* For what is a public office or charge, *see Rex v. Marsham.*

† The office of parish clerk is a freehold, and upon that footing he gains a settlement.

served several years; it was held to be a *parish office;* and if he is poor and has a family he may be removed, for although he came in by the *parson only,* yet the parish not removing him implies consent and approbation, by which consent the law adjudges him in by the concurrence of the parish. *Galton v. Milwich, H.* 10 *Anne. Cases in the K. B. Concerning Poor,* 241. 2 *Salkeld's Reports,* 536. *Foley's Poor Laws,* 123. 2 *Bott,* 157. 1 *Nolan's Poor Laws,* 522, 556. 557, 3*d edit.*

Incorporated parishes under 22 Geo. 3.

1405. Where eight parishes were incorporated, and had a common workhouse, under the 22 *Geo.* 3. *c.* 83, and a person was appointed by one of these parishes governor of the poor of that parish for one year, and served for three years under that appointment, residing in the workhouse; it was held that no one parish had power singly to appoint a governor of its poor, and that the pauper did not, by serving under that appointment, gain a settlement.

Semble; that if he had been appointed by all the parishes he would not have gained a settlement. *See* 39 *of the* 22 *Geo.* 3. *c.* 83, which provides, "that nothing in the act contained shall alter or affect the settlement of any person or persons whomsoever." *Rex v. Inhabitants of Hambleton, T.* 5 *Geo.* 4. 4 *Barnewall and Creswell's Reports,* 459.

Certificated person executing the office of parish clerk.

1406. Executing the office of *a parish clerk* is sufficient for a *certificated* person to gain a settlement, for it is an *annual office.* It is not necessary for a *parish clerk* to be licensed by the ordinary in order to be legally placed in his office. *Rex v. St. Mary Berkhampstead, E.* 8 *Geo.* 2. 2 *Sessions Cases,* 182. 2 *Strange's Reports,* 942.

Serving the office of clerk in a chapel in an extra parochial vill.

1407. A person serving an office of clerk in a chapel situated in an extra-parochial vill, may gain a settlement in an adjoining parish, if he resides there, and if part of the duties of his office of clerk be exercisable within that part of the parish where he resides. *The King v. Ambwich, M.* 6 *Geo.* 4. 4 *Barnewall and Creswell's Reports,* 757.

Curate not a public officer.

1408. A curate is not a public officer; nor is the serving a cure during sequestration to be con-

sidered an annual office or charge under the act. *Helsington v. Over, T.* 13 *Geo.* 3. *Burrows' Settlement Cases,* 746. 2 *Bott,* 165. 2 *Nolan's Poor Laws,* 556, 3*d edit. Rex v. Wantage, M.* 41 *Geo.* 3. 2 *East's Reports,* 65. 2 *Bott,* 169. 1 *Nolan,* 553. 556, 3*d edit.*

Sexton a public officer.

1409. A sexton is a public officer within the meaning of the statute (*pl.* 1400. *p.* 336.), and *gains* a settlement, if part of the chapel-yard or church-yard is in the parish where he lives, though there are no burials in it during his being in office. *Rex v. Liverpool, H.* 29 *Geo.* 3. 3 *Term Reports,* 118. 2 *Bott,* 166. 1 *Nolan's Poor Laws,* 552. 556, 557. 559, 3*d edit.*

Warden for a borough.

1410. A warden for a borough extending to two several parishes, *gains a settlement* in the parish in which he lives. *St. Mary v. St. Lawrence in Reading, H.* 9 *Anne.* 19 *Viner's Abridgment,* 379. 2 *Bott,* 156. 1 *Nolan's Poor Laws,* 552. 557, 3*d edit.*

Constable of a city.

1411. A constable of a city, which comprehends several parishes, *gains a settlement* in the parish in which he lives. *St. Maurice v. St. Mary Kallendar in Winchester, E.* 8 *Geo.* 2. 1 *Burrows' Settlement Cases,* 27. 2 *Bott,* 158. 1 *Nolan's Poor Laws,* 557, 3*d edit.*

Tithingman.

1412. *Tithingman* is an annual office in a parish within the words and meaning of the act (*pl.* 1400, *p.* 336).

Entering upon the office, but not sworn.

1413. It has not been determined whether entering upon the office immediately, but not being sworn in till after the expiration of a year, is sufficient to *gain a settlement;* but the court were inclined to consider it a *good settlement. Holy Trinity v. Garrington, H.* 2 *Geo.* 1. *Foley's Poor Laws,* 123. *Cases in K. B. concerning Poor,* 95. *Burrows' Settlement Cases,* 30. 2 *Bott,* 158. 1 *Nolan's Poor Laws,* 552. 556. 559, 3*d edit.*

Borsholder.

1414. A borsholder legally placed in the office by being admitted and sworn, *gains a settlement. Wingham v. Sellindge, M.* 7 *Geo.* 2. 2 *Strange's Reports,* 1199. *Burrows' Settlement Cases,* 223. 2 *Bott,* 161. 1 *Nolan's Poor Laws,* 552. 558, 559, 3*d edit.*

Hog-ringer, aletaster, and hayward.

1415. A hog-ringer for a parish being an office of great antiquity, if legally chosen at a court-leet, and sworn, is a public annual office within the meaning of the statute, (*pl.* 1400, *p.* 336), (*and so also an aletaster and a hayward*). *Rex v. Whittlesea, T.* 32 *Geo.* 3. 4 *Term Reports,* 807. 2 *Bott,* 166. 1 *Nolan's Poor Laws,* 553. 555, 3*d edit.*

Bailiff or aletaster for a borough.

1416. A *bailiff* or *aletaster* for a borough, nominated at the court-leet and sworn, and executing the office for a year, *acquires a good settlement. Rex v. Whitchurch, T.* 27 *and* 28 *Geo.* 2. *Burrowe' Settlement Cases,* 365. 2 *Bott,* 163. 1 *Nolan's Poor Laws,* 552. 558, 3*d edit.* (*See Rex v. Frittleworth, pl.* 1422, *p.* 340, *post*).

Schoolmaster.

1417. A schoolmaster is not a *public office,* but only *an employment,* and confers no settlement. *Rex v. Melbourne, E.* 18 *Geo.* 2. 2 *Strange's Reports,* 1125. *Burrows' Settlement Cases,* 244. 2 *Bott,* 162. 1 *Nolan's Poor Laws,* 555, 3*d edit.*

Collector of duties on births and burials.

1418. A person serving the office of collector of the duties on births and burials, for a year in a parish, under the stat. 6 *and* 7 *W.* 3. *c.* 6. *gains a settlement.* It need not be a *parish office, but a public annual office. Bisham v. Cock, H.* 7 *Geo.* 1. *Strange's Reports,* 411. *Foley's Poor Laws,* 124. 2 *Bott,* 157. 1 *Nolan's Poor Laws,* 552. 556, 3*d edit.*

Collector of land-tax.

1419. A person serving the office of collector of the land-tax, gains a settlement within the meaning of the statute (*pl.* 1400, *p.* 336). *Rex v. Hammond, H.* 7 *Geo.* 1. 2 *Bott,* 157. 1 *Nolan's Poor Laws,* 552, 3*d edit.*

Governor of a workhouse.

1420. Governor of a workhouse (if stated to be "*a public or annual office*"), at an annual salary, put into possession of certain apartments in the workhouse usually occupied by former governors, *by the parish officers, gains a settlement. Rex v. Ilminster, M.* 41 *Geo.* 3. 1 *East's Reports,* 83. 2 *Bott,* 167. 1 *Nolan's Poor Laws,* 554, 3*d edit.*

Master of a workhouse.

1421. The appointment of master of a workhouse, although appointed by the vestry, is not such a public office, or public annual office, within the

meaning of the statute, as will confer a settlement by serving such office. *Rex v. Mersham, H.* 46 *Geo.* 3. 7 *East's Reports*, 167. 2 *Bott*, 170. 1 *Nolan's Poor Laws*, 553, 554, 3*d edit.*

As to the Time.

Serving part of a year only.

1422. Serving a public office, or public annual office, for part of a year, does not *confer a settlement;* a person under such circumstances is removable, though in the execution of his office, if he becomes chargeable; *the act requires the executing some annual office for a whole year. Rex v. Frittleworth, M.* 18 *Geo.* 2. *Burrows' Settlement Cases*, 233. 2 *Bott*, 172. 1 *Nolan's Poor Laws*, 561, 3*d edit.*

Custom to serve half a year at a time.

1423. Where there is a custom to serve an office for *half a year* only at a time, it does not confer a settlement. *Cold Adam v. Woodchester, H.* 31 *Geo.* 2. *Burrows' Settlement Cases*, 444. 2 *Bott*, 174. 1 *Nolan's Poor Laws*, 557, 3*d edit.*

A person sworn in as borsholder irregularly discharged.

1424. Where a pauper was legally sworn in as a borsholder at a court-leet, and after executing the office a few days, and afterwards irregularly, by two magistrates, discharged from executing his office, and another person appointed; but he acquiesced in this, and did not in fact execute the office. It was held that this was not executing an annual office within the parish, so as to *confer a settlement. Rex v. Holy Cross, Westgate, T.* 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports*, 619.

As to the Residence.

As to the residence.

1425. It has been considered, that there must be a residence of at least *forty* days in the parish, in which the office is executed, and the settlement claimed; but this point has not been decided. The words in the statute, "*in the said town or parish,*" (*pl.* 1400, *p.* 336.), were construed by the court, not as importing an office in the town or parish, but more largely, *any office* while the person remains

in the said town or parish. *St. Maurice v. St. Mary Kallendar in Winchester, E.* 8 *Geo.* 2. (*pl.* 1411, *p.* 338).

1426. But the accuracy of this report has been doubted, and it is considered that both the statutes and subject require that he shall execute the office in such parish. 1 *Nolan's Poor Laws*, 562, 3*d edit.* *See Rex v. Liverpool* (*pl.* 1409, *p.* 338). The office must be executed in the parish.

As to paying towards the Taxes and Levies of the Parish.

1427. *Forty days' inhabitancy shall gain a settlement.* 13 *and* 14 *Car.* 2. *c.* 12. Forty days' inhabitancy.

1428. *If any person who shall come to inhabit in any town or parish, shall be charged with and pay his share towards the public taxes or levies of the said town or parish, he shall be adjudged to have a legal settlement in the same.* 3 *W. c.* 11. *s.* 6. A person charged with and paying taxes, &c.

1429. *No person, after* 22*d June,* 1795, *who shall come into* any parish, township, or place, shall gain any settlement therein by being charged with, and paying his share towards the public taxes or levies of such place, for and on account, or in respect of any tenement, not being of the yearly value of* 10*l.* 35 *Geo.* 3. *c.* 101. *s.* 4. Paying taxes of a tenement under 10*l.* a year rent.

1430. *No person, after the* 2*d July,* 1819, *shall acquire a settlement in* England *by renting a tenement, and residing forty days, unless the tenement consists of a separate and distinct dwelling-house, or building, or of land, or both, bonâ fide* hired *at* 10*l. a year at the least, for a whole year, nor unless the same shall be held and occupied, and the rent actually paid* No settlement acquired by paying rates for any tenement, unless it is a separate dwelling-house, &c.

---

* It is clear that the legislature meant that no person shall gain a settlement, after this act, by being rated and paying; these words, "who shall come into any parish," mean who shall *inhabit* there. It was intended to put an end to settlements of this sort in future. *See Rex v. Islington, H.* 41 *Geo.* 3. 1 *East's Reports*, 283. 2 *Nolan's Poor Laws*, 124.

by the person hiring*, *nor unless the whole of such land is situated within tht same parish, as the house in which such person shall dwell.* 59 *Geo.* 3. *c.* 50.† *But now, no person, after the* 22*d June,* 1825, *by settling upon, renting,* or paying parochial rates *for any tenement,* not being his *own property, unless such tenement shall consist of a separate and distinct dwelling-house, or building, or land, or of both,* bonâ fide *rented by such person at* 10*l. per annum, at the least* for the term of one *whole year, nor unless the house or building, or land, shall be occupied under such yearly hiring, and the rent to the amount of* 10*l. actually paid for one whole year at the least; and it shall not be necessary to prove the actual value of the tenement.* 6 *Geo.* 4. *c.* 57. *s.* 2. (*See pl.* 1294, *p.* 313.)

Occupying a tenement at 4*l.* per annum, but worth above 10*l.*

1431. A person occupying, at 4*l.* a year, a part of a dwelling-house of the annual value of 18*l.*, does not, since the passing of the act of 35 *Geo.* 3. *c.* 101. *s.* 4 (*p.* 341. *pl.* 1429), acquire a settlement, although he is rated and pays to the church and poor rate *for the whole house. Rex v. Inhabitants of Penryn, M.* 57 *Geo.* 3. 5 *Maule and Selwyn's Reports,* 443. 2 *Nolan's Poor Laws,* 124.

Settlement by being rated and paying parochial taxes.

1432. A settlement may be gained by being rated and paying parochial taxes in respect of a tenement, being above the annual value of 10*l. Rex v. Inhabitants of St. Pancras, T.* 4 *Geo.* 4. 2 *Barnewall and Creswell's Reports,* 122. 2 *Nolan's Poor Laws,* 125.

Residing under certificate and paying taxes.

1433. Persons residing under a certificate shall gain no settlement by being rated to and paying any such levies, taxes, or assessments. 9 *and* 10 *W. c.* 11.

As to Inhabitancy.

Rated in one parish but residing in another parish.

1434. A person *rated in one parish, but residing*

---

* There is nothing said about *hiring,* nor that the rent shall be paid by the *person hiring* the tenement, in the 6 *Geo.* 4. *c.* 57.

† Repealed by 6 *Geo.* 4. *c.* 57.

in another, does not gain a settlement by paying such rates. *Rex v. St. Michael at Thorn in Norwich, H.* 36 *Geo.* 3. 6 *Term Reports,* 536. 2 *Nolan's Poor Laws,* 132.

Who shall be charged.

Paying rates when the rate is informal.

1435. Although the rate is *informal,* if the party rated *pays* to such rate, he *gains a settlement.* 19 *Viner's Abridgment,* 386. *St. Giles Cripplegate v. St. Mary Newington,* 2 *Nolan's Poor Laws,* 126.

Name inserted if the rate is paid.

1436. But if a person's name is inserted in a rate after payment, it is not such a rating as will gain a settlement. *Rex v. Edgbaston, H.* 36 *Geo.* 3. 6 *Term Reports,* 540. 2 *Nolan's Poor Laws,* 127.

The Tenant is to be charged, and not the Landlord.

The party paying must be the party charged.

1437. The person *paying* the rate must also be the person *rated,* and he must be *the tenant. Sealon Tongall v. Worplesdon, M.* 13 *Geo.* 1. *Foley's Poor Laws,* 128. 2 *Sessions Cases,* 122.

The rate must be made upon and paid by the person claiming settlement.

1438. The rate must be *made upon* and *paid by* the person claiming a settlement. *Kinver v. Kingswinford, E.* 4 *Geo.* 2. *Foley's Poor Laws,* 120. 2 *Nolan's Poor Laws,* 110, 3*d edit. Rex v. Sanatt, M.* 9 *Geo.* 2. *Burrows' Settlement Cases,* 73. 2 *Nolan,* 126. *Rex v. Bramshaw, M.* 10 *Geo.* 2. *Burrows,* 98. 2 *Nolan,* 109, 3*d edit. Rex v. Lower Walton, H.* 10 *Geo.* 2. *Burrows,* 100. 2 *Nolan,* 109.

Rate must be on the occupier and no one else

1439. The rate must be upon the *occupier,* and *no one* else, and it must be such a rating and paying as to show manifestly that the parish had notice (*see Rex v. Walsall, pl.* 1442, *next page*). *Rex v. Hickmondwicke, H.* 21 *Geo.* 3. *Douglass's Reports,* 564. *Caldecott's Reports of Settlement Cases,* 103. 2 *Nolan's Poor Laws,* 128.

But a person may be rated by another description than as occupier by name.

1440. But it is not necessary that the *occupier* should be rated by *name,* as where a man lived in a place called *Hoscoe's* tenement, and paid taxes by the name of the *occupier* of Hoscoe's; it was adjudged to be a sufficient designation of the party so

as to gain a settlement. *Rex v. Brightman, E.* 8 *Geo.* 1. 8 *Modern Reports*, 38. 2 *Burrows' Reports*, 1062.

And so where the tenant is rated "as tenant."

1441. And so where a rating is thus, "*Thomas Clifford* or *tenant*," it was held that the *tenant* was sufficiently charged to notify to the parish that he was an inhabitant there, and consequently gained a settlement by paying the rates so charged. *Rex v. Painswick, T.* 31 *Geo.* 2. *Burrows' Reports of Settlement Cases*, 465. 2 *Nolan's Poor Laws*, 127.

The description must be sufficient to charge the tenant.

1442. It is enough if there is such a description to charge the tenant: the person must be both *rated* and *pay;* and as to the manner *how* he is to be rated, his name need *not* be *inserted* in the rate; if the parish have sufficient notice of him it is sufficient, and *paying* under such a *rating* is an *equivalent* notice, and a settlement is gained by such rating. *Rex v. Walsall, M.* 18 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 35. 2 *Nolan's Poor Laws*, 127, 128.

Where the rate is made in any other way than by name.

1443. But there must be a charge upon him; and if the rate is made in any other way than by name, it must appear that the tenant was *notoriously* such; the overseers ought to know the state and condition of the inhabitants. *T.* 28 *Geo.* 3. 2 *Term Reports*, 628. 2 *Nolan's Poor Laws*, 130. *Rex v. Corhampton, H.* 21 *Geo.* 3. *Douglass's Reports*, 621. *Caldecott's Reports of Settlement Cases*, 108. 2 *Nolan's Poor Laws*, 132.

The rate must be produced as evidence.

1444. The rate itself must be produced as evidence of being charged. *Rex v. Coppall, M.* 42 *Geo.* 3. 2 *East's Reports*, 25. 2 *Nolan's Poor Laws*, 133.

Refunding to the Tenant.

Landlord refunding to the tenant.

1445. A landlord refunding to the tenant the amount of the tax paid, does not prevent the tenant gaining a settlement: any agreement between landlord and his tenant, that the landlord should pay the rates, is nothing to the parish. *Rex v. Openshaw, E.* 4 *Geo.* 3. *Burrows' Settlement Cases*, 522. 1 *Blackstone's Reports*, 463.

Salary to a tide-waiter.

1446. The *salary* of a tidewaiter rated to the land-tax, which was paid for some time by himself, but afterwards paid by the collector of the customs, gave the tidewaiter a settlement; *the land-tax being a parish tax within the act. Rex v. Oakhampton, E.* 7 *Geo.* 2. *Burrows' Settlement Cases,* 5. 2 *Nolan's Poor Laws,* 123. 131.

The salary of an officer of excise.

1447. The salary of an officer of excise rated to the land-tax, but which rate he never paid himself, or any rate, the same *being paid by the collector of excise, and not deducted out of the salary.* It was held that if the rate had been paid by him through another person, that would have been a payment by himself; but in this case he neither paid it mediately nor immediately; it was not deducted out of his salary, nor was his income affected by it. The pauper neither in fact paid the rate himself, nor constructively by the hands of an agent. *No settlement gained. Rex v. Weobley, M.* 42 *Geo.* 3. 2 *East's Reports,* 68. 2 *Nolan's Poor Laws,* 132.

Salary of a custom-house officer.

1448. The salary of a custom-house officer, *rated* to the land-tax, *which rate was paid by himself,* but afterwards reimbursed to him by the collector of the customs, *gains a settlement,* notwithstanding the land-tax redemption acts *, which perpetuate the tax on salaries as a mere personal tax. *Rex v. Axmouth, E.* 47 *Geo.* 3. 8 *East's Reports,* 383. 2 *Nolan's Poor Laws,* 123. 125.

Of the Land-Tax.

Land-tax a tax within the act.

1449. By the three last cases, the land-tax is considered to be a tax within the meaning of the act, and so it was determined in *Rex v. Bromeley, H.* 9 *Geo.* 2. *Burrows' Settlement Cases,* 75. 2 *Nolan's Poor Laws,* 123. 131.

Presumption as to the party rated.

1450. It may be presumed from the form of rating, who is the person rated; and in the case of land-tax,

---

* The 38 *Geo.* 3. *c.* 60, *and* 39 *Geo.* 3. *c.* 6; but see 42 *Geo.* 3. *c.* 116.

the presumption is (between the public and the tenant) that *the occupier* is the person rated. *Rex v. Mitcham, E.* 32 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 276. 2 *Nolan's Poor Laws,* 129. *Rex v. Carshalton, Burrows' Settlement Cases,* 809.

Church rate a public tax.

1451. A church rate is a public tax within the meaning of the act. *Rex v. Endon, Caldecott's Reports of Settlement Cases,* 374. *Rex v. St. Lawrence, Winchester, Caldecott,* 379. *Rex v. Folkstone,* 3 *Term Reports,* 505. *Rex v. St. James, Bury St. Edmonds, Caldecott,* 385; *and Rex v. Bridgewater,* 3 *Term Reports,* 550. 2 *Nolan,* 132.

Rate made too narrowly.

1452. A rate made too narrowly is a good rate for the purposes of a settlement. *Rex v. St. Beefs, H.* 48 *Geo.* 3. 9 *East's Reports,* 208. 2 *Nolan's Poor Laws,* 122. 127.

Scavengers and highways.

1453. No person who shall be assessed to the *scavenger's* rate, or to the repairs of the *highways,* and shall duly pay the same, shall be *deemed to be settled thereby.* 9 *Geo.* 1. *c.* 7. *s.* 6.

County rate.

1454. Paying to the *county bridge, gains no settlement. T.* 9 *Anne. Cases in the K. B. relating to the Settlement of the Poor,* 1.

How does the 12 Geo. 2. c. 29. now operate in this case.

1455. But perhaps the case may be altered in this respect, since the 12 *Geo.* 2. *c.* 29. charges a sum certain upon every division, in proportion to their poor-rate, towards the repairs of bridges and other county expenses, brought together by this act into one general county rate, and which were before collected separately, and (*with respect to bridges*) charged by the *justices* upon every individual; whereas now, if a man pays to the county rate, he eases the division where he is assessed, and pays off so much as his assessment comes to. And there is in this case the same notoriety of his inhabitancy as in the case of the poor-rate. 4 *B. p.* 679. *edit.* 1826.

Paying taxes for a tenement of less than 10*l.* a year.

1456. No person shall gain a settlement by paying taxes for a tenement of less than 10*l.* yearly value, 35 *Geo.* 3. *c.* 101. *s.* 4.

Paying the assessed taxes.

1457. Persons assessed to, and paying the duties *on any of the assessed taxes,* shall not thereby *gain a settlement.* 43 *Geo.* 3. *c.* 161. *s.* 59.

As to the Acknowledgment of Settlement by Certificate.

1458. The statute 35 *Geo.* 3. *c.* 101, by rendering no one removable till he or she become *actually chargeable*, has made it no longer *necessary* to grant certificates; yet as the parish officers retain the *power* to certify, as heretofore, that *any particular person is a parishioner* of their parish, and as questions upon the subject will probably arise occasionally upon certificates yet existing, it is necessary to retain the law upon this subject; at the same time the reader should recollect the alteration effected by this act.

Parish officers are not obliged to grant certificates since the stat. 35 Geo. 3.

1459. "If any person or persons whatsoever, after the 1st of May, 1697, shall come into any parish or other place there to inhabit and reside, and shall at the same time, procure, bring, and deliver to the churchwardens or overseers of the poor of the parish or place where any such person shall come to inhabit, or to any or either of them, a certificate, under the hands and seals of the churchwardens and overseers of the poor of any other parish, township, or place, or the major part of them, or under the hands and seals of the overseers of the poor of any other place where there are no churchwardens, to be attested respectively by two or more credible witnesses, thereby owing and acknowledging the person or persons mentioned in the said certificate to be an inhabitant or inhabitants legally settled in that parish, township, or place, every such certificate having been allowed of, and subscribed by two or more of the justices of the peace of the county, city, liberty, borough, or town corporate, wherein the parish or place, from whence any such certificate shall come, doth lie, shall oblige the said parish or place to receive and provide for the person mentioned in the said certificate, together with his or her family, as inhabitants of that parish, whenever he, she, or they shall happen to become chargeable to, or be forced to ask relief of the parish, township, or place to which

Persons coming to inhabit in any parish or place, and bringing with them a certificate under the churchwardens' hands, &c. owning them to be inhabitants of such other parish, the said other parish to provide for them whenever they ask relief of the parish to which such certificate was given. And shall not be removed.

such certificate was given; and then, and not before, it shall and may be lawful for any such person, and his or her children, though born in that parish, not having otherwise acquired a legal settlement there, to be removed, conveyed, and settled in the parish or place from whence such certificate was brought." 8 *and* 9 *W.* 3. *c.* 30. *s.* 1.

The above act explained.

1460. Doubts had arisen by what act persons coming to inhabit *or* reside within any parish under such certificates, might procure a legal settlement, it is enacted, that "no person or persons whatsoever, who shall come into any parish by any such certificate, shall be adjudged by any act whatsoever to have procured a legal settlement in such parish, unless he or they shall really and *bonâ fide* take a lease of a tenement of the yearly value of ten pounds, or shall execute some annual office in such parish, being legally placed in such office." 9 *and* 10 *W.* *c.* 11.

After 24 June, 1713, any person bound apprentice, or being a hired servant to one who came into a parish by certificate, shall not gain a settlement there by reason of such apprenticeship, &c.

1461. "If any person whatsoever, who, upon or after the 24th of June, 1713, shall be an apprentice, bound by indenture to, or shall, upon or after the said 24th of June, 1713, be a hired servant to, or with any person whatsoever, who did come into or shall reside in any parish, township, or place, in that part of Great Britain called England, by means or licence of such certificate, and not afterwards having gained a legal settlement in such a parish, township, or place, such apprentice, by virtue of such apprenticeship, indenture, or binding, and such servant by being hired by, or serving as a servant, as aforesaid, to such person, shall not gain or be adjudged to have any settlement in such parish, township, or place, by reason of such apprenticeship or binding, or by reason of such hiring or serving therein; but every such apprentice and servant shall have his and their settlements in such parish, township, or place, as if he or they had not been bound apprentice or apprentices, or had not been a hired servant or servants to such person as aforesaid; any act or acts of parliament to the contrary notwithstanding." 12 *Anne*, *st.* 1. *c.* 18. *s.* 2.

1462. "To prevent disputes, which often happen, touching the proof of certificates given by the officers of any parish or place, acknowledging any person or persons, therein named, to be an inhabitant or inhabitants legally settled in such parish, town, or place, by virtue of statute 8 *and* 9 *W.* 3. *c.* 30., and for making such certificates more effectual; it is enacted, that after the 24th of June, 1730, the witnesses, who attest the execution of such certificates, by the churchwarden or churchwardens, overseer or overseers, signing and sealing the same, or one of the said witnesses shall make oath before the justices of the peace, who by the said act are directed to allow the same (which oath they are hereby authorised to administer), that such witness or witnesses did see the churchwarden or churchwardens, overseer and overseers, whose names and seals are thereunto subscribed and set, severally sign and seal the said certificate, and that the names of such witnesses attesting the said certificate, are of their own proper handwriting; which said justices of the peace shall also certify that such oath was made before them; and every such certificate so allowed, and oath of the execution thereof so certified by the said justices of the peace, shall be taken, deemed, and allowed, in all courts whatsoever, as duly and fully proved, and shall be taken and received as evidence without other proof thereof; and that all certificates given in pursuance of the said act, before the said 24th of June, 1730, shall be also taken and allowed in all courts as evidence, without other proof; provided the same are duly allowed by two justices of the peace, as by the said act is required." 3 *Geo.* 2. *c.* 29. *s.* 8. Witness to certificates of settlements to swear that they saw the churchwardens, &c. sign them.

The form of the certificate:

To the Churchwardens and Overseers of the Poor of the Parish of , in the county of .* Form of certificates.

We, the churchwardens and overseers of the poor

* See *pl.* 1464, *p.* 350, as to the direction.

of the parish of , in the county of do hereby certify, own, and acknowledge, that , yeoman, is an inhabitant legally settled in our parish of aforesaid. In witness whereof, we have hereunto set our hands and seals, the day of , in the year of our Lord .

Attested by us, } Churchwardens. } Overseers of the Poor.

Allowance of the certificate by two justices.

We, W. R. and E. R. M, esquires, two of his majesty's justices of the peace in and for the said county of , do allow of the above written certificate. And we do also certify, that , one of the witnesses who attested the same, hath this day made oath before us, the said justices, that he the said , did see the churchwardens and overseers of the poor of the parish of aforesaid, whose names and seals are thereunto subscribed and set, severally sign and seal the same, and that the names of and , who are the witneses attesting the said certificate, are respectively of their own proper hand-writing. Given under our hands, this day of .

As to the Form of the Certificate.

Parish is not compellable to give a certificate.

1463. A parish is not compellable to grant a certificate; nor will the court grant a mandamus to compel a certificate to be granted. *Rex v. St. Ives. H.* 3 *Geo.* 2. 2 *Sessions Cases*, 153. 2 *Bott*, 561. 2 *Nolan's Poor Laws*, 165.

Misdirected or a non-directed certificate, not void.

1464. A certificate misdirected, or not directed at all, is not void, the statute not requiring any particular direction; but if a certificate is granted, it must contain an acknowledgment of the settlement of the certified person. *Rex v. St. Nicholas, in Harwich, H.* 15 *Geo.* 2. 2 *Strange's Reports*, 1163. *Burrows' Settlement Cases*, 171. 2 *Bott*, 562. 2 *Nolan's Poor Laws*, 173.

1465. A certificate need not be directed to the parish to which it is delivered, nor to any parish in particular. But it cannot be *transferred* from parish to parish. *Rex v. Lillington, E.* 41 *Geo.* 3. 1 *East's Reports,* 438. 2 *Bott,* 571. 2 *Nolan's Poor Laws,* 173. *Sessions Cases.* Certificate need not be directed to the parish.

1466. But there must be a particular parish in contemplation at the time of granting the certificate. *Rex v. Lubbenham, E.* 31 *Geo.* 3. 4 *Term Reports,* 251. 2 *Bott,* 584. 2 *Nolan's Poor Laws,* 439. 140. 141. (*See this case, post.*) A particular parish must be in contemplation.

1467. The statute requires the certificate to be signed by a *majority* of the churchwardens and overseers, or *it is void. Rex v. Tamworth, E.* 14 *Geo.* 3. *Burrows' Settlement Cases,* 770. 2 *Bott,* 564. 2 *Nolan's Poor Laws,* 167. *Rex v. Morgan, E.* 27 *Geo.* 3. 1 *Term Reports,* 775. 2 *Bott,* 565. 2 *Nolan,* 167. (*See the stat.* 8 *and* 9 *W.* 3. *c.* 30. *s.* 1, *p.* 347, *pl.* 1459, *ante.*) How it must be signed.

1468. If signed by one churchwarden and one overseer, where there are four churchwardens and two overseers, *it is void. Rex v. Cliften, H.* 42 *Geo.* 3. 2 *East's Reports,* 168. 2 *Bott,* 573. 2 *Nolan's Poor Laws,* 168, 169. If not signed by a majority, void.

1469. Certificates granted before the passing of the 51 *Geo.* 3. *c.* 80. signed by two persons only *acting as churchwardens as well as overseers,* are valid; but not to alter any prior decision. *Rex v. St. Margaret's, Leicester, E.* 47 *Geo.* 3. 8 *East's Reports,* 332. *Bott, continued till* 1814, 22. 2 *Nolan's Poor Laws,* 167, 168. (*See* 54 *Geo.* 3. *c.* 107. *s.* 1. *and p.* 5. *pl.* 14, *title Apprentices.*) Certificates granted before the act 51 Geo. 3. c. 80.

1470. Certificates of settlement are valid, although the churchwardens or chapelwardens were not sworn in at the time of signing them. 54 *Geo.* 3. *c.* 107. (*See title Apprentices, ante.*)

1471. Certificates are valid, if executed by the overseers of the poor of a *township, hamlet, chapelry,* or *place* only. *Ibid. s.* 2.

1472. But not to affect settlements gained before the passing of this act. *Ibid. s.* 3. Not to affect settlements.

Certificate granted by one churchwarden and overseer.

1473. A certificate granted in 1761 by *A*, the only churchwarden, and *B*, the only overseer of the parish. It was held, that it must be taken to have been a good certificate, because it may be extended in favour of such an instrument, that by custom there was only one churchwarden in the parish, and that two overseers had been originally appointed, but that one of them died, and that the certificate was granted before the vacancy in the office was filled up. *Rex v. Inhabitants of Catesby, E.* 1824. 2 *Barnewall and Creswell's Reports*, 814. 1 *Nolan's Poor Laws*, 505.

Certain notices and certificates made valid by 1 and 2 Geo. 4. c. 32.

1474. After the 28 *May*, 1821, *all indentures for binding of parish apprentices*, and *certificates of settlement, or settlements of poor persons*, which have been, previous to the passing of this act, executed or signed by one churchwarden or chapelwarden, acting or purporting to act, in the capacity of churchwarden or churchwardens, chapelwarden or chapelwardens, for any parish, township, &c. or place in *England*, for which two churchwardens or chapelwardens, had formerly been appointed, shall be deemed and taken to be as good and effectual, as if the said indentures or certificates had been executed by one or more churchwarden or chapelwarden, churchwardens or chapelwardens, legally appointed. 1 *and* 2 *Geo.* 4. *c.* 32.

Certificate to be signed by two justices, but they are not obliged to sign it.

1475. A certificate cannot conclude the parish, unless signed by *two justices*. The certificate act, (3 *Geo.* 2. *c.* 29. *s.* 8, *pl.* 1462, *p.* 349, *ante*,) specifies certain checks and guards upon certificates. But the *justices* are not *obliged* ministerially to allow and sign a certificate; they have a *discretion* to allow or *not* allow it, if liable to objection. *Rex v. Wooton, St. Laurence, H.* 8 *Geo.* 3. *Burrows' Settlement Cases*, 581. 2 *Bott*, 563. 2 *Nolan's Poor Laws*, 170.

Justices who allow, may attest it as witnesses.

1476. The justices who allow the certificate may attest it as the witnesses; but it must appear upon the face of the certificate, that they took upon themselves to act in *both* capacities. *Rex v. Boston, E.* 4 *Geo.* 3. 2 *Bott*, 561. 2 *Nolan's Poor Laws*, 170, 171.

Certificate of more than thirty years date.

1477. A *parish certificate* of more than thirty years' date, acknowledging the pauper's grandfather and father to belong to the appellant parish, produced by a rated inhabitant, who was overseer of the respondent parish, was held to be evidence, though it was objected, that some account should be given of it, and that the witness was not competent to give that account; and it seems that, if necessary, he might be examined as to the custody. (*See* 1 *and* 2 *Geo.* 4. *c.* 29. *s.* 8. *p.* 349, *pl.* 1462, *ante.*) *Rex v. Netherthong, H.* 54 *Geo.* 3. 2 *Maule and Selwyn's Reports,* 337.

Evidence on appeal of the delivery of a certificate.

1478. On an appeal, the respondent, in order to prove the fact of the delivery to them, of a certificate given by the appellants, acknowledging the pauper to be their settled inhabitant, produced an old book from their own parish chest, in which was an entry of that fact, in the handwriting of a former parish officer. It was held, that such evidence was inadmissible. *Rex v. Debenham, M.* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports,* 185. 2 *Nolan's Poor Laws,* 193.

As to the sealing of a certificate.

1479. A certificate signed by *two* churchwardens and *one* overseer, but having only *two* seals, the act 8 *and* 9 *W.* 3. *c.* 30. *s.* 1. (*see p.* 349, *pl.* 1462, *ante*) requiring certificates to be under the hands and seals of the churchwardens and overseers, *or the major part of them,* or under the hands and seals of the overseers when there are *no churchwardens,* the certificate being duly attested and allowed by *two justices;* one of the seals was opposite to the two first names, and the other seal opposite to the last name. The court determined, that the certificate had been properly executed. *Rex v. Austrey, E.* 1817. *Phillips's Law of Evidence, 6th edit.* 458. 2 *Nolan's Poor Laws,* 167.

Certificate stated to be allowed according to act of parliament.

1480. If a certificate is stated to be *allowed* according to the act of parliament, the court will presume that *it was duly attested,* otherwise it could not be so allowed. *Barleycroft v. Coleoverton, M.* 7 *Geo.* 1. 2 *Bott,* 161. 2 *Nolan's Poor Laws,* 147.

The production of a certificate more than thirty years old, sufficient.

1481. The mere production of a certificate more than thirty years old, was held sufficient, and the respondents were not *obliged* to show that it had been kept in the *parish church*. *Rex v. Byton*, E. 33 *Geo.* 3. 5 *Term Reports*, 259. 2 *Bott*, 625. *Phillips's Law of Evidence*, 464. 2 *Nolan's Poor Laws*, 193.

As to the Delivery of the Certificate.

Delivery of the certificate.

1482. The act requires the certificate to be delivered to one of the parish officers at the time of coming into the parish, (*see Rex v. Wensley, p.* 361. *pl.* 1516, *post*). But a certificate, though not delivered, is an acknowledgment by the parish granting it, that the pauper was their settled inhabitant when it was given; but it is not determined by the case of *Rex v. Buckingham*, (*p.* 357, *pl.* 1494, *post*), that it prevents the pauper gaining a settlement in the certificated parish after it is granted. *Rex v. Wensley*, H. 33 *Geo.* 3. 5 *Term Reports*, 154. 2 *Bott*, 569. 2 *Nolan's Poor Laws*, 142. 173. 180.

As to the Protection by Certificates from Removal.

Persons by certificates protected from removal.

1483. Where two parishes, A and B, together purchased a piece of land in another parish C, and built thereon a poor-house in common to both parishes, to which they removed the pauper, (*with others*), giving them all certificates to the parish of C. The pauper had not been chargeable to the parish of C, but was removed on the ground that *he was not an object of the certificate act*, and therefore not protected by it. It was held, that no restriction was imposed against two parishes uniting under the 9 *Geo.* 1. *c.* 7. *s.* 4 *, to purchase a building for their

* Intitled, " An Act for amending the laws relating to the settlement, employment, and relief of the poor."

poor, and that they might purchase it in a third parish, and that when purchased, it becomes part of the local system of each parish. And the *certificate acts* (*p.* 357, *pl.* 1494, *p.* 361, *pl.* 1516), authorise the whole body of the poor, *of whatever denomination*, and with *whatever object*, to leave their own, and remove into any *other* parish under the *protection* of a certificate. *Rex v. St. Peter and St. Paul, Bath, T.* 22 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 213. 2 *Bott*, 540. 2 *Nolan's Poor Laws*, 165. 377.

As to what Persons a Certificate extends.

A certificate extends to all the family of the certificated man, born either before or after certificate granted.

1484. A certificate extends not only to the certificated man himself, but all his family, and all his children, either born *before* or *after* the certificate is granted, whether by a second wife while residing under the certificate after the death of the first, who had removed into the parish, and resided with him under it, as also to a second wife herself, married under such circumstances. *Rex v. Sherborne, E.* 15 *Geo.* 2. *Burrows' Settlement Cases*, 182. 2 *Bott*, 578. 2 *Nolan's Poor Laws*, 174. *Rex v. Bray, Burrows*, 259. 2 *Bott*, 580. 2 *Nolan*, 156. *Rex v. Hampton*, 5 *Term Reports*, 266. 2 *Bott*, 440. *Rex v. Buckingham, Burrows*, 314. 2 *Bott*, 580.

A certificate granted to a single woman with child.

1485. A parish granting a certificate to a woman, stated to be a spinster, and with child, and acknowledging both to be legally settled in the parish certifying, is bound to receive the child born a bastard in the certified parish. *Rex v. Ipsley, T.* 28 *Geo.* 2. *Burrows' Settlement Cases*, 650. 2 *Bott*, 581. 2 *Nolan's Poor Laws*, 139.

But not to an unmarried woman agreeing to receive all her children.

1486. But a certificate stating the woman to be unmarried, and agreeing to receive her and all the children she might thereafter have, does not extend to a bastard born several years after. *Rex v. Mathon, T.* 37 *Geo.* 3. 7 *Term Reports*, 362. 2 *Bott*, 600. 1 *Nolan's Poor Laws*, 323, 324.

Nor to grandchildren, nor children unmarried.

1487. A certificate does not extend to grandchildren, nor to children (*unmarried*), after they become heads of families. The family consists of *those* who live under the same roof with the *father of the family*, and who form his fire-side. When they become the heads of new establishments, they cease to be a part of the father's family. *Rex v. Darlington, T.* 32 *Geo.* 3. 4 *Term Reports*, 797. 2 *Bott*, 588. 2 *Nolan's Poor Laws*, 174. 176. 183. 190. *Rex v. Heath, E.* 24 *Geo.* 3. 5 *Term Reports*, 583. 2 *Bott*, 614. 2 *Nolan*, 176. 183, 184. *Rex v. Mortlake, E.* 45 *Geo.* 3. 6 *East's Reports*, 397. 2 *Bott*, 619. 2 *Nolan*, 174. 176. 178.

If children are named in certificate.

1488. But if the children are named in the certificate, it will *extend* to them *after* they become heads of families *. *Rex v. Testerton, E.* 33 *Geo.* 3. 5 *Term Reports*, 258. 2 *Bott*, 592. *Rex v. Keel, Caldecott's Reports of Settlement Cases*, 144. 2 *Bott*, 605. 2 *Nolan's Poor Laws*, 174. 185. 188. *Rex v. Bath Euston*, 8 *Term Reports*, 446. 2 *Bott*, 601. 2 *Nolan*, 188.

The name of a child omitted intentionally.

1489. If a child's name is intentionally omitted to be inserted in the certificate, it does not *extend* to that child, although he may not have become the head of a family. It is generally understood if a certificate is granted to a *head* of a family, it extends to *all* the members of that family, and it protects *only three classes* of persons, those who are named in it, those who are *part* of the family of the certificated person when it is granted, and his children, *born in the certificated* parish *after* that time. *Rex v. Storrington, H.* 37 *Geo.* 3. 7 *Term Reports*, 133. 2 *Bott*, 598. 2 *Nolan's Poor Laws*, 164. 176.

---

* The parties granting a certificate are competent to limit the extent of it, and it may be framed so as to *exclude*, as well as to *include*, a person who would otherwise be considered as protected by it.

Of the Effect of a Certificate.

1490. A certificate acknowledging the persons returned in it to be man and wife, concludes the parish, though it afterwards appear that they were not so; the woman swearing they had never been married. *New Windsor v. White Waltham, T.* 5 *Geo.* 1. 1 *Strange's Reports,* 186. 2 *Bott,* 577. 2 *Nolan's Poor Laws,* 139, 140. Certificate as of a man and his wife, and it afterwards appears they were never married.

1491. A certificate acknowledging R. B., and M. his wife, to be legally settled, &c. is conclusive of the fact of settlement, though they were not legally married, R. B. having a first wife still alive. *Rex v. Headcorn, T.* 19 *Geo.* 2. 2 *Sessions Cases,* 206. 2 *Strange's Reports,* 1233. *Burrows' Settlement Cases,* 253. 2 *Bott,* 578. 2 *Nolan's Poor Laws,* 139. Certificate conclusive against the parish, though the parties were not married.

1492. A certificate including by mistake a bastard, as a legitimate child, it was held to be conclusive. *Rex v. Tostock, H.* 13 *Geo.* 3. 2 *Bott,* 582. *Burrows' Settlement Cases,* 737. 2 *Nolan's Poor Laws,* 139. *Rex v. Idle, M.* 59 *Geo.* 3. 3 *Barnewall and Alderson's Reports,* 149. 2 *Nolan,* 194. Certificate including by mistake a bastard, conclusive against the parish.

1493. When the second marriage of the wife is not fraudulent or criminal, a certificate acknowledging the second husband, and M *his wife,* will be conclusive, though the first husband return after the second marriage. *Rex v. Ullesthorpe, H.* 40 *Geo.* 3. 8 *Term Reports,* 465. 2 *Bott,* 601. 1 *Nolan's Poor Laws,* 301. In case of a second marriage.

1494. A certificate is *conclusive* between the parish certifying and the parish to which it is granted, although *not delivered* till *after the removal. Rex v. Buckingham, M.* 20 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 64. 2 *Bott,* 564. 2 *Nolan's Poor Laws,* 141. A certificate conclusive, although not delivered till after the removal.

1495. A certificate is not conclusive excepting before the second original parishes; when a question arises between the original certifying parish and a third parish, the certifying parish may inquire into Where a certificate is not conclusive.

the truth of the facts stated in the certificate. *Rex v. Lubbenham, E.* 31 *Geo.* 3. 4 *Term Reports,* 251. 2 *Bott,* 584. 2 *Nolan's Poor Laws,* 139, 140, 141.

Certificate not binding against a subsequent one.

1496. A certificate is not binding against a subsequent certificate. *Harrison v. Lewis, E.* 5 *W.* 3. 3 *Salkeld's Reports,* 253. 2 *Bott,* 570. 2 *Nolan's Poor Laws,* 184.

Certificate not restrictive from gaining a settlement in a third parish.

1497. A certificate not restrictive from gaining a settlement in a third parish; and therefore the apprentice to a certificated man being assigned to one in another parish, may gain a settlement in that parish by serving him there. *Rex v. Petham, M.* 14 *Geo.* 2. 2 *Strange's Reports,* 1147. 2 *Bott,* 578. 2 *Nolan's Poor Laws,* 177.180. *Rex v. Sherbourne, E.* 15 *Geo.* 2. *Burrows' Settlement Cases,* 182. 2 *Bott,* 578. 2 *Nolan,* 177.

Certificate person at large.

1498. A certificated person is at large as to every parish but the certificated one. *Rex v. Silton, H.* 21 *Geo.* 2. *Burrows' Settlement Cases,* 269. 2 *Bott,* 32. 2 *Nolan's Poor Laws,* 177.

So as to hiring and service.

1599. So also in the case of hiring and service in a third parish. *Rex v. Horsley, T.* 28 *Geo.* 2. *Burrows' Settlement Cases,* 385. 2 *Bott,* 581. 2 *Nolan's Poor Laws,* 177.

Extent of a certificate.

1500. A certificate extends no farther than to the place where first delivered. *Rex v. Bishopside, T.* 28 *Geo.* 2. *Burrows' Settlement Cases,* 381. 2 *Bott,* 581. 2 *Nolan's Poor Laws,* 180.

As to the Continuance of Certificates.

A voluntary removal to a third parish is not of itself a desertion of the certificate.

1501. Where a certificated man takes an apprentice, and then goes with him to another parish, and the apprentice *resides there forty days as an apprentice,* the apprentice gains a settlement; *a voluntary removal* to a third parish is *not* of itself *a desertion* of the certificate. *Rex v. Spotland, H.* 5 *Geo.* 3. *Burrows' Settlement Cases,* 527. 2 *Bott,* 604. 2 *Nolan's Poor Laws,* 180.

1502. But a certificate is discharged by gaining

a settlement in another parish. *Rex v. Great Tarrington, T.* 30 *and* 31 *Geo.* 2. *Burrows' Settlement Cases,* 428. 2 *Nolan's Poor Laws,* 184. *Rex v. Keynsham, Burrows,* 429. 2 *Nolan,* 184. (*See Rex v. Keel, p.* 360. *pl.* 1509, *post.*) Where a certificate is discharged.

1503. The settlement of a son coming into a parish with his father, under a certificate, as part of the father's family, not having before gained any settlement of his own, shifts with the settlement of the father in the certificated parish, though such son was named in the certificate. *Rex v. Leek Wootton, T.* 52 *Geo.* 3. 16 *East's Reports,* 118. *Bott, continued to* 1814, 23. 2 *Nolan's Poor Laws,* 174. 176. 187, 188, 189. Settlement of the son shifts with that of the father.

1504. A certificate is discharged by an estate coming to a man by *descent, devise,* or *purchase,* he continuing therein forty days, provided that in case of *purchase,* the consideration *bonâfide* paid amounted to 30*l. notwithstanding the stat. of* 9 *and* 10 *W.* 3. (*See p.* 349, *pl.* 1462, *ante.*) Certificate discharged by estate, coming to a man by devise or purchase.

1505. Also by a removal by order of justices. *Rex v. Sudbury, H.* 28 *Geo.* 2. *Burrows' Settlement Cases,* 373. 2 *Bott,* 602. 2 *Nolan's Poor Laws,* 181. Also by removal.

1506. A certificate is discharged when the certificated man return with his whole family to the certifying parish, and died there, without going back to the parish which received him under the certificate. *Rex v. Taunton, St. Mary Magdalen, T.* 29 *and* 30 *Geo.* 2. *Burrows' Settlement Cases,* 142. 1 *Bott,* 603. 2 *Nolan's Poor Laws,* 184. *Rex v. Mortlake, post.* And also when a certificated man returns to the certifying parish.

1507. A parish certificate granted to T. C., and I. his wife, engaging to receive them, *their child or children, born or to be born,* only extends to a son born at the time of granting the certificate, so long as he continues part of his father's family; therefore where the son married and resided with his family apart from his father in the certificated parish, it was held that his apprentice gained a settlement by serving him in the said parish. *Rex v. Thwaites, T.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports,* 669. How far a certificate granted to a man and his wife, engaging to receive them, their child or children, born or to be born, extends.

Bott, continued to 1814, 26. 2 *Nolan's Poor Laws,* 190.

Returning to certifying parish after certificate, and having a child who marries and has a family in certificated parish.

1508. If a certificate acknowledges A. and B. his wife to be legally settled, &c., and A. and B. return to the certifying parish, and there have a son, and the son binds himself to a person in the certificated parish, and there marries and has a family, the family is not within the certificate. *Rex v. Frampton upon Severn, T.* 20 *Geo.* 3. *Douglass's Reports,* 418. 2 *Bott,* 604. 2 *Nolan's Poor Laws,* 184. *Caldecott's Reports of Settlement Cases,* 97. *Settlement Cases in the year* 1751.

Certificated person going to a third parish.

1509. If a certificated person goes into a third parish, and there is hired to different persons for a year respectively, and serves accordingly, and then returns to her brother, who is still residing under the certificate, it is no desertion of the certificate. *Rex v. Keel, H.* 22 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 144. 2 *Bott,* 605. 2 *Nolan's Poor Laws,* 185. 188. (*See pl.* 1504, *preceding page.*)

Leaving certificated parish without any intention to return.

1510. Whenever a certificated person leaves the certificated parish, without any intention of returning, the certificate is at an end. *Rex v. Newington, T.* 26 *Geo.* 3. 1 *Term Reports,* 354. 2 *Bott,* 610. 2 *Nolan's Poor Laws,* 184.

A temporary removal of a certificated person.

1511. A temporary removal is where a person goes from the certificated parish elsewhere on a visit, or on occasional business, leaving his family behind him in that parish as his domicile. *Rex v. St. Michael's, Coventry, H.* 34 *Geo.* 3. 5 *Term Reports,* 526. 2 *Bott,* 612. 2 *Nolan's Poor Laws,* 184.

The son of a certificated person hiring and serving in the certificating parish.

1512. If a son of a certificated person leaves him and goes to the certificating parish, and there hires himself to and serves several persons, *but gains no settlement* there, and then returns to the certificated person, it is *no desertion* of the certificate. *Rex v. Ingworth, M.* 40 *Geo.* 3. 8 *Term Reports,* 339. 2 *Bott,* 616. 2 *Nolan's Poor Laws,* 185.

As to removing certificated Persons.

None but who ask relief.

1513. No more of a certificated family can be removed back than those who ask relief. *Rex v. Framlingham, T.* 13 *Geo.* 3. *Burrows' Settlement Cases,* 748. 2 *Bott,* 539. 2 *Nolan's Poor Laws,* 196.

Son and family not residing with his father.

1514. If *A.* and his family, not resident with his father, ask relief, the latter is *not* thereby chargeable. *Rex v. St. Mary, Westport,* 29 *Geo.* 3. 3 *Term Reports,* 44. 2 *Bott,* 542. 2 *Nolan's Poor Laws,* 196, 197.

A certificated pauper may be removed to where he gained his settlement by certificate.

1515. A pauper may be removed from a parish *where he is residing* under a certificate, to a parish *in which* he gained a settlement before the granting of the certificate, and need not of *necessity* be removed to the certifying parish. *Rex v. St. Martin at Oak, M.* 58 *Geo.* 3. 16 *East's Reports,* 303. *Bott, continued to* 1814, 25.

As to Apprenticeship under Certificate.

An apprentice to a certificated man

1516. An apprentice to a man who had a certificate, but which was not delivered till after the apprenticeship, may *gain a settlement* by such apprenticeship. *Rex v. Wensley, H.* 33 *Geo.* 3. 5 *Term Reports,* 154. 2 *Bott,* 439. 2 *Nolan's Poor Laws,* 173. 180.

As to Acknowledgment of Settlement by Relief.

Receiving relief is no proof of settlement.

1517. The bare effect of receiving relief while in a parish is no proof of settlement in that parish. *Rex v. Chadderton, M.* 42 *Geo.* 3. 2 *East's Reports,* 27. 2 *Bott,* 654. 2 *Nolan's Poor Laws,* 135.

Relief given many times no proof of settlement.

1518. Relief given (*many times*) to a pauper resident in the relieving parish is no evidence of a settlement. *Rex v. Chatham, T.* 47 *Geo.* 3. 8 *East,* 498. *Bott, continued to* 1814, 33. 2 *Nolan's Poor Laws,* 136.

1519. But relief given by a parish to a family re-

But relief given to a family residing in another parish is.

sident in another parish, is evidence of a settlement in the relieving parish. *Rex v. Wakefield, T.* 44 *Geo.* 3. 5 *East's Reports,* 335. 2 *Bott,* 15. 2 *Nolan's Poor Laws,* 137. (*See Rex v. Maidstone,* 2 *Nolan,* 138.) Per lord Ellenborough, in the absence of other circumstances, relief might be evidence; yet the fact of giving relief only showed the *opinion* of the parish that the pauper was settled with them.

Relief while residing in other places.

1520. Evidence of a settlement in *A.* by certificate granted to the pauper's grandfather is rebutted, by showing that *B.* had relieved the pauper and his family whilst residing in other places. *Rex v. Inhabitants of Stanley cum Wrenthorpe, E.* 52 *Geo* 3. 15 *East's Reports,* 350. *Bott, continued to* 1814. 2 *Nolan's Poor Laws,* 191.

Proof of relief by the appellant parish before 1815.

1521. Upon the trial of an appeal at the quarter sessions, the respondent parish proved relief granted to the father of the pauper by the appellant parish before the year 1815. The appellant parish then tendered an order of sessions made in the year 1815, quashing an order of justices for the removal of the brother of the pauper to the appellant parish. And they tendered parol evidence to show that the ground of the decision of the court of quarter sessions was, that the father of the pauper had not at that time any settlement in the appellant parish, and consequently that the son had not any derivative settlement there. It was held that even if parol evidence was admissible to prove the ground of the decision of the sessions, still that the order of sessions was not evidence that the father of the pauper was not settled in the appellant parish in 1815; because the father's settlement was a matter that arose collaterally on the trial of the parish appeal. *Rex v. Inhabitants of Knaptoft, E.* 5 *Geo.* 4. 2 *Barnewall and Alderson's Reports,* 883.

As to Acknowledgment of Settlement by Order of Removal not appealed against.

1522. It has been adjudged in many cases that an

order of removal unappealed against is conclusive, and that the settlement of the party described in the order is in the parish receiving a pauper under such order, and not appealing against it in due time. *For further on this subject see title "As to how far the Order of Removal unappealed against is final."*

Order of removal unappealed against is conclusive.

TO REMOVALS *.

Who may or not be removed.

1523. "Whereas by reason of some defects in the law, poor people are not restrained from going from one parish to another, and therefore endeavour to settle themselves in those parishes where there is the best stock, the largest commons or wastes to build cottages, and the most wood for them to burn or destroy; and when they have consumed it, then to another parish, and at last become rogues and vagabonds, to the great discouragement of parishes to provide stocks, where it is liable to be devoured by strangers; *it is enacted,* That it shall and may be lawful, upon complaint made by the churchwardens or overseers of the poor of any parish, to any justice of peace, within forty days after any such person or persons coming so to settle as aforesaid, in any tenement under the yearly value of ten pounds, for any two justices of the peace, whereof one to be of the *quorum,* of the division where any person or persons that are likely to be chargeable to the parish shall come to inhabit, by their warrant to remove and convey such person or persons to such parish where he or they were last legally settled,

Poor people going from one parish to another.

How to be settled, coming to any tenement under 10*l.* yearly value.

---

* As to the removal of poor persons born in *Scotland, Ireland, Isle of Man, Jersey, Guernsey.* (*See* 59 *Geo.* 3. *c.* 12. *s.* 33 *and* 34, *post.*)

either as a native, householder, sojourner, apprentice, or servant, for the space of *forty* days at the least, unless he or they give sufficient security for the discharge of the said parish, to be allowed by the said justices." 13 *and* 14 *Car.* 2. *c.* 12. *s.* 1 *.

Removal cannot be a township not having overseers.

1524. A removal cannot be made to a township, in which a legal settlement is claimed, ceasing to have overseers. *Rex v. Saighton on the Hill, M.* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports*, 162.

Extra-parochial district made a township by act of parliament.

1525. Where a district, previously *extra-parochial*, was by act of parliament made a township; and it was provided that from thenceforth it should maintain its own poor, and have the like powers, privileges, and immunities, and be subject to the same regulations as other townships within the county. It was held that this clause was *prospective* only, and that a bastard born within the district, previously to passing of the act, was not settled there. *Rex v. Inhabitants of Oakmere, E.* 3 *Geo.* 4. 5 *Barnewall and Alderson's Reports*, 775.

Persons may go into any county, &c. to work, taking a certificate of their habitation with them.

1526. Any person may go into any county, parish, or place in the time of harvest to work, so that he carry with him *a certificate* of his habitation; and in case such person shall not return home after his work is finished, or shall fall sick or impotent whilst in work, it shall not be accounted a settlement in the said cases, and he may be removed by *two justices* to convey him to the place of his habitation; "*And if such person shall refuse to go, or shall not remain in such parish where they ought to be settled as aforesaid, but shall return of his own accord to the parish from whence he was removed, it shall and may be lawful for* any *justice of the peace of the city, county, or* town corporate, where the said offence shall be committed, to send such person offending to the house of correction, there to be punished as a vagabond, or to a public workhouse, in this act men-

Punishment of persons returning after removal.

---

* This act is altered and explained by 1 *Jac.* 2. *c.* 17. *s.* 3, *and by the* 3 *W. and M. c.* 11. *pl.* 1529, *next page.*

tioned, there to be employed in work or labour. 13 *and* 14 *Car.* 2. *c.* 12. *s.* 3.

1527. And every person returning to and becoming *chargeable* to any parish, township, or place, from whence he shall have been legally removed by order of *two justices*, unless he shall produce such *certificate* as above mentioned (*pl.* 1526.) shall be deemed an *idle and disorderly person*, and *any* justice of the peace may commit such offender (*being thereof convicted either by his own view, or by the confession of the offender, or by the evidence on oath of one or more credible witness or witnesses*) to the house of correction, there to be kept *to hard labour* for any time not exceeding *one calendar month*. 5 *Geo.* 4. *c.* 83. *s.* 3. (*Vagrant Act.*)

Such persons offending to be deemed idle and disorderly persons and dealt with accordingly.

1528. "If the churchwardens and overseers of the poor of the parish to which he or they shall be removed, refuse to receive such person or persons, and to provide work for them, as other inhabitants of the parish; any justice of peace of that division may and shall thereupon bind any such officer or officers in whom there shall be default, to the assizes or sessions, there to be indicted for his or their contempt in that behalf*." 13 *and* 14 *Car.* 2. *c.* 12. *s.* 3.

Churchwardens and overseers refusing to receive the persons removed.

1529. "If any person be removed by virtue of this act from one county, riding, city, town corporate, or liberty to another, by warrant under the hands and seals of two justices of the peace, the churchwardens or overseers of the poor of the said parish or town, to which the said person shall be so removed, are hereby required to receive the said person, and if he or they shall refuse so to do, he or they so refusing or neglecting (upon proof thereof by two credible witnesses upon oath before any justice of the peace of the county, riding, city, or town corporate, to which the said person shall be so removed) shall forfeit for each offence the sum of five pounds *, to the use of the poor of the parish or town from which the said person was removed, to be

Churchwarden must receive a person removed by warrant of two justices of peace, upon 5*l.* penalty.

---

* For the construction of the above two acts 13

levied by distress and sale of the offender or offenders' goods, by warrant under the hand and seal of any justice of the peace of the county, riding, city, or town corporate, to which such person was removed, to the constable of the parish or town where such offender or offenders dwell; which warrant the said justice is impowered and required to make; the overplus, if any to be returned to the owner or owners; and for want of such sufficient distress, then the said justices shall commit the said offender or offenders to the common gaol of the said county, riding, city, or town corporate, or liberty, there to remain without bail or mainprize for the space of *forty* days. 3 *W. and M. c.* 11. *s.* 10.

One justice may examine a pauper as to his settlement.

1530. One justice of the peace alone may cause the pauper to be brought either before him, or before himself and another justice, to be examined as to the place of his settlement on the complaint of the parish officers; but the adjudication of the settlement must be by two justices, or if the party is willing he may go voluntarily at the request of the overseers without a warrant. 4 *Burn, p.* 726, *edit.* 1825.

No person can be removed until actually chargeable.

1531. No person is to be removed *from the parish* or place *where he shall be inhabiting*, to the place of his last legal settlement, *until* he shall have become *actually chargeable*. 35 *Geo.* 3. *c.* 101. *s.* 1*. (*Passed the* 22*nd June*, 1795.)

Persons convicted of larceny, felony, and rogues, vagabonds, and idle, and disorderly, &c. considered actually chargeable, and may be removed.

1532. Every person who shall have been *convicted of larceny or other felony*, or who shall be deemed a *rogue, vagabond, idle, or disorderly person*, or a person *of evil fame*, or a *reputed thief*, and persons not being able to *give a satisfactory account* of himself or herself, or of his or her *way* of living, *shall be* considered actually *chargeable* to the parish where

---

and 14 *Car.* 2, *and* 3 *W. and M.* as to the penalty for not receiving a pauper legally removed, *see Rex v. Davis, post.*

* Intitled "An Act to prevent the removal of poor persons until they shall become actually chargeable."

such persons shall reside, and shall *be liable to be removed* to his or her last legal settlement. *Ibid. s. 5.*

Every unmarried woman with child to be deemed actually chargeable.

1533. Every unmarried woman *with child* shall be deemed to be a person actually chargeable, and may be removed as such to the place of her last legal settlement. *Ibid. s. 6.* (*See pl.* 1545 *and* 1546, *next page.*)

A married woman with child, her husband absent.

1534. A married woman with child, whose husband is absent, under such circumstances as would render the child a bastard, is within the provision of the 35 *Geo. 3. c.* 101. *Rex v. Tibbenham.* 9 *East's Reports,* 388. (*See pl.* 1545, *next page.*)

Pauper residing on a purchase under 30*l.* value.

1535. But a pauper residing on an estate which he acquired by purchase for less than 30*l.* is *irremovable during such residence. Rex v. Martley, E.* 43 *Geo.* 3. 5 *East's Reports,* 40. 2 *Nolan's Poor Laws,* 110, 157. *See p.* 381. *pl.* 1379. *ante.* (*See Rex v. Whitehaven, post.*)

Suspension of order of removal.

1536. For the suspension of order of removal, *see post.*

As to the Removal of the Wife.

A wife cannot be removed without her husband, unless there was a separation.

1537. A wife *cannot* be removed without the husband, unless there was a separation *in fact,* which the appellants must show. *St. Michael Bath v. Nimney, H.* 9 *Geo.* 1. 1 *Strange's Reports,* 544. *Burrows' Settlement Cases,* 315. 2 *Bott,* 80. 2 *Nolan's Poor Laws,* 154, 155.

It must appear that the husband was resident with the wife to invalidate the order.

1538. But it must appear, to make such a removal invalid, that the husband was resident with the wife at the time of her removal. *Rex v. Ironacton, M.* 14 *Geo.* 2. *Burrows' Settlement Cases,* 153. 2 *Bott,* 81. 2 *Nolan's Poor Laws,* 155.

A wife may be removed (eo nomine.)

1539. If a wife is removed (*eo nomine*) to the place of her last legal settlement, *it is good. Rex v. Higherwalton, H.* 14 *Geo.* 2. *Burrows' Settlement Cases,* 162. 2 *Bott,* 81. 2 *Nolan's Poor Laws,* 154, 155.

Order removing a married woman, not stating her to be such, and her children, held to be sufficient.

1540. An order for the removal of a married woman (not stating her to be such) and her children to *Y.,* adjudging that the lawful settlement of her and her children is in *Y.,* was held good, without

adjudging that *Y.* was her husband's settlement; and proof by the mother of the husband that he gained a settlement in *Y.* by hiring and service, was held sufficient without calling the husband, although it appeared that he was in this country. *Rex v. Yspytty, E.* 55 *Geo.* 3. 4 *Maule and Selwyn's Reports,* 52. 2 *Nolan's Poor Laws,* 207.

Wife and children of a foreigner.

1541. The wife and children of a foreigner when they become chargeable *cannot* be removed from him to the wife's parish. *Rex v. Carleton, T.* 15 *Geo.* 3. *Burrows' Settlement Cases,* 813. 2 *Bott,* 81. 2 *Nolan's Poor Laws,* 154, 155.

Removal of a woman as the wife of I. C. to C. is good.

1542. The removal of a woman as the wife of *I. C.* to *C.* is good, for it will be presumed that *C.* is the husband's settlement. *Rex v. Hinxworth, H.* 18 *Geo.* 3. *Douglass's Reports,* 46. (*n.* 13.) *Caldecott's Reports of Settlement Cases.* 2 *Bott,* 83. 2 *Nolan's Poor Laws,* 143.

Husband returning after the removal of the wife.

1543. If the husband returns after the removal of the wife, and the order of removal is quashed, they *cannot* be removed together *to the place* of the former removal. *Rex v. Leigh, M.* 19 *Geo.* 3. *Douglass's Reports,* 46. *Caldecott's Reports of Settlement Cases,* 59. 2 *Bott,* 85. 2 *Nolan's Poor Laws,* 143.

Where a wife may be removed without the husband.

1544. The wife may be removed without her husband (*he having no settlement*) if they consent. *Rex v. Eltham, E.* 44 *Geo.* 3. 5 *East's Reports,* 113. 2 *Bott,* 90. 2 *Nolan's Poor Laws,* 155.

A married woman pregnant of a bastard, the husband abroad.

1545. A married woman pregnant of a child which when born will be a bastard, *is removable,* if the husband is abroad, and she shall be for this purpose as an unmarried woman with child (*see pl.* 1533, *p.* 367). *Rex v. Tibbenham, E.* 48 *Geo.* 3. 9 *East's Reports,* 388. *Bott, continued to* 1814, 41. 2 *Nolan's Poor Laws,* 198. 221. (*See p.* 367. *pl.* 1534, *title Bastards, ante.*)

But otherwise if she is a woman of substance.

1546. But otherwise if it appears she is a woman of substance, and there is no pretence to say she is likely to bring a burthen on the parish; the act did not intend to make such a person liable to be removed. *Rex v. Aveley, post. Rex v. Tibbenham,* (*see as above*).

1547. An order of removal made upon complaint that *M. S.* the wife of *W. S*, who is absent from her, is come to inhabit in, &c., and is with child, which is likely to be born a bastard, adjudging the said *M. S.* to be *actually* chargeable, was held sufficient in form, although the complaint did not state that the pauper was *actually* chargeable. *Rex v. Inskip-with-Sowerby, T.* 56 *Geo.* 3. 5 *Maule and Selwyn's Reports*, 299. 2 *Nolan's Poor Laws*, 198. 220. 222. Order of removal.

As to the Removal of Servants.

1548. Justices of the peace *cannot*, upon the complaint of the parish officers, remove a servant from his master, because they cannot *dissolve a contract* to which they are not parties; therefore a removal of a servant from his master can *only* be done either upon the complaint of the master or the servant. 4 *B. p.* 733. A servant cannot be removed from her master on complaint of parish officers.

1549. Where a maid servant shall be with child, which is likely to be born a bastard, if the master is willing to keep her, the parish *cannot* remove her, but the master may, if he chooses, complain to a justice that she is less able to perform the service, and the justice (if he sees sufficient cause) may discharge her, and then the parish officer, by the order of two justices, may remove her to her last legal settlement. *Rex v. Brampton, H.* 17 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 11. 2 *Bott*, 317. 1 *Nolan's Poor Laws*, 385. 435. 2*d edit.* 156. *Rex v. Welford, Caldecott*, 57. A maid servant with child, which is likely to be born a bastard, may be discharged from his service and then removed.

1550. A single woman serving a master under a contract of hiring and service, *cannot*, though pregnant of a child which will be a bastard, be removed from her service against her master's consent and her own. *Rex v. Alveley, E.* 49 *Geo.* 3. 3 *East's Reports*, 563. 2 *Bott*, 546. 2 *Nolan's Poor Laws*, 156, 157. A single woman, serving a master under a contract of hiring and service, cannot be removed though pregnant with a bastard child.

As to Removals under the 35 *Geo.* 3. *c.* 101. *s.* 1. *an Act to prevent the Removal of poor Persons until they shall become actually chargeable.* (*See p.* 366, *pl.* 1531. *ante.*)

Order of removal must state the woman to be chargeable.

1551. An order of removal, adjudging merely that the woman removed was *with child and unmarried*, without drawing the conclusion that she was *chargeable*, is bad. *Rex v. Holm, East Waver Quarter, T.* 49 *Geo.* 3. 11 *East's Reports*, 381. *Bott, continued to* 1814, 44. 2 *Nolan's Poor Laws*, 198. (*See extract from the act, s.* 6, *p.* 367, *pl.* 1533, *ante. See also Rex v. Tibbenham, p.* 368, *pl.* 1545, *ante*).

Order of removal stating that a woman being pregnant is deemed chargeable, is good.

1552. An order of removal founded on the 35 *Geo.* 3. *c.* 101. *s.* 6. (*p.* 367, *pl.* 1533, *ante*), stating that *A. E.* single woman, was by being pregnant deemed to have become chargeable, &c. *is good. Rex v. Diddlebury, E.* 47 *Geo.* 3. 9 *East's Reports*, 398. *Bott, continued to* 1814, 44. 2 *Nolan's Poor Laws*, 214.

Unmarried woman pregnant.

1553. An *unmarried* woman being pregnant, may be removed though she is *residing* under a certificate. *Rex v. Great Yarmouth, M.* 39 *Geo.* 3. 8 *Term Reports*, 68. 2 *Bott*, 545. 2 *Nolan's Poor Laws*, 197.

A servant settled cannot be removed with a master.

1554. A servant well *settled*, being with a master removable, *cannot* be removed with him, but the master may complain upon the retainer. *Cases in the K. B. concerning Poor*, 211.

Removing bastards from their mother.

1555. As to removing bastards from their mother, *see p.* 226, *pl.* 826, *ante.*

As to the Removal of Casual Poor.

A person meeting with an accident while passing through a parish, is casual poor.

1556. A labourer who, in passing through a parish with a loaded cart, breaks his leg by accident, is to be considered as casual poor, and as such *not removable* under the 13 *and* 14 *Car.* 2. *c.* 12. (*see p.* 363, *pl.* 1523), or 35 *Geo.* 3. *c.* 101. (*see p.* 366, *pl.* 1531, *ante*). *Rex v. St. James in Bury St.*

Edmunds, E. 38 *Geo* 3. 10 *East's Reports,* 25. *Bott, continued to* 1814, 47. 2 *Nolan's Poor Laws,* 161, 162.

1557. A removal of a pauper who had been sent backwards and forwards from one parish to another, and who had been occasionally relieved by *both*, it was held to be good. *Rex v. Birmingham, T.* 51 *Geo.* 3. 14 *East's Reports,* 251. *Bott, continued to* 1814, 49. 2 *Nolan's Poor Laws,* 163.

A pauper relieved by two parishes, removed from one to the other.

1558. Where a pauper was legally settled in the parish of *A*, having met with an accident in the parish of *B*, was carried into the parish of *C*, to be cured, and remained there a long time; it was held, that he was to be considered as *casual* poor in the parish of *C*, and was removable, and that an *order* of removal to *A*, suspended under the powers of the 35 *Geo.* 3. *c.* 101, and a *subsequent order* on the overseers of *A*, to pay the intermediate charges incurred by the parish of *C*, were *invalid*. *Rex v. Inhabitants of St. Lawrence, Ludlow, T.* 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports,* 660. 2 *Nolan's Poor Laws,* 162.

A pauper belonging to A, meets with an accident in B, is considered in C. casual poor.

As to the Removal of Poor Persons born in Scotland, Ireland, *and the Isles of* Man, Jersey, *and* Guernsey, (*not Vagrants*).

1559. Two justices of the peace may, and they are required, upon the complaint of the churchwardens and overseers, that any person born in *Scotland* or in *Ireland*, or in either of the isles of *Man, Jersey,* and *Guernsey,* hath become chargeable to the parish by himself or herself, or his or her family, to cause such person to be brought before them, and to examine such person and witnesses on oath, touching the place of his or her birth, or last legal settlement, and to inquire whether he or she, or any of his or her children have had or gained any settlement in *England*; and if it shall be found that such person was born in *Scotland* or *Ireland*, or either of the said *Isles*, and hath not

How poor persons born in Scotland, Ireland, &c. are to be passed, although they have not committed an act of vagrancy.

gained any settlement in *England*, and hath become *actually chargeable* to the complaining parish by himself or herself, or his or her family, the justices are empowered by *a pass* under their hands and seals, *in the form and to the effect prescribed in the act of the* 17 *Geo.* 2. *c.* 5. *s.* 7—14 *, (*mutatis mutandis*), (*see the following pl.* 1560, 1561, 1562, 1563, *and* 1564), to cause such poor persons as shall *not* have gained a settlement in *England*, to be removed to the place of their *birth*, or *last legal settlement*, in manner *directed by* the said act *for the removal of rogues and vagabonds* to *Scotland* and *Ireland* and the said *Isles;* and all constables and other officers, and all masters of vessels, are required to convey any such person so passed as directed by the said act, 59 *Geo.* 3. *c.* 12. *s.* 33: (*that is to say*),

Rogue or vagabond apprehended to be examined as to settlement.

1560. " Where any rogue or vagabond apprehended by a constable or other officer, shall be brought before any justice or justices, such justice or justices are required to inform himself or themselves, by the examination upon oath of the person or persons apprehending, or of any other person, of the condition and circumstances of the person or persons so apprehended, and of the parish or place where he, she, or they were last legally settled, the substance of which examination shall be put into writing, and be subscribed or signed by the person or persons examined; and the said justice or justices shall likewise sign the same, and transmit it to the next general or quarter sessions for the county, riding, city, borough, town corporate, division, or liberty, there to be filed as a record †, and

---

* Intituled, " An act to amend and make more effectual the laws relating to rogues, vagabonds, and other idle and disorderly persons, and to houses of correction."

† See the 32 *Geo.* 2. *c.* 45, by which it is enacted, " that where any justice of the peace shall order to be conveyed, by a pass under his hand and seal, any

such justice or justices are empowered, if they think convenient, by a pass under hand and seal * in manner and form therein directed, to cause such persons to be conveyed to the place of their last legal settlement; but if it cannot be found, then to the place of their birth; or if such persons or any of them be under the age of fourteen years, and have any father or mother living, then to the place of abode of such father or mother, there to be delivered to such churchwarden, chapelwarden, or overseer of the poor of such parish, town, or place." 17 *Geo.* 2. *c.* 5. *s.* 7.

To prevent unnecessary expenses in removing rogues and vagrants.

1561. "And to prevent unnecessary expense in the passing or conveying rogues, vagabonds, and incorrigible rogues, [*paupers*], the justice or justices who shall make the pass, shall at the same time, with the said pass, cause likewise to be delivered to the constable, or other officer appointed to carry

---

rogue or vagabond, according to the provisions of the 17 *Geo.* 2. *c.* 5, such rogue or vagabond shall be either publicly whipt, or be sent to the house of correction, there to remain until the next general or quarter sessions, or for any such less time as such justice shall think proper, provided that such less time shall be at the least for the space of seven days, and that such justice shall certify in the pass by which such person shall be ordered to be conveyed, that such person has been actually publicly whipt, or confined in the house of correction for at least the space of seven days; provided also, that no person shall be so whipt or imprisoned, and conveyed by pass as a rogue or vagabond, who shall not have commited an act of vagrancy, and who shall not have been convicted thereof. *s.* 1.

Whenever any female shall be convicted as a rogue, vagabond, or incorrigible rogue, in no case whatever shall the punishment of whipping be inflicted on such female. *Ibid. s.* 2.

* The form of the pass is set forth in the act.

vagrants passing into Ireland, &c.

packet-boat, bound for *Ireland*, the Isles of *Man*, *Jersey*, *Guernsey*, or *Scilly*, shall, upon warrant* to him directed, under the hand and seal of a justice of the peace of the county, town, or place where such ship, vessel, or packet-boat shall lie, to take on board the same such vagrant and vagrants as shall be named in the said warrant, and convey him, her, or them to such place in *Ireland*, the Isles of *Man*, *Jersey*, *Guernsey*, or *Scilly*, as such ship, &c. shall be bound to, or shall arrive at; and for the charges thereof such master shall take, and the constable, or person who serves him with the said warrant, shall pay him such rate per head, as the justices of the peace, in their *quarter sessions*, shall from time to time appoint; and such master shall and is required, on the back of the said warrant, to sign a receipt for the money so paid, and also for the vagrant or vagrants so brought and delivered, which warrant, so endorsed, shall then be produced to the justice who signed and sealed it, and upon his allowance thereof under his hand, the money so paid shall be repaid by the county, as by law is directed, for conveying vagrants from county to county. And every master of such ship, &c. neglecting or refusing to receive on board, or to transport such vagrant or vagrants, or to indorse and sign such receipt, shall forfeit *5l.*, to the use of the poor of the parish or place where the offence shall be committed, to be levied by distress and sale of the said ship, or any goods within the same, by warrant under the hand and seal of any justice of the peace for the same county, city, or town corporate, returning the overplus, (if any) upon demand, after the penalty and charges of levying are satisfied. *Ibid. s.* 14.

Wife and unemancipated children of Scotchmen not having a settlement in England, must be sent with the husband.

1566. The wife and unemancipated children of a *Scotchman*, who has not acquired any settlement in *England*, must, if chargeable, be sent by a pass along with the husband to *Scotland*, and cannot be removed to the maiden settlement of the wife. 59

* The form of the warrant is set forth in the act.

Geo. 3. *c.* 12. *s.* 23, *p.* 371, *pl.* 1559, *ante.* *Rex v. Inhabitants of Leeds*, 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports*, 498. 2 *Nolan's Poor Laws*, 250, 251.

An unemancipated daughter of an Irishman not having a settlement of his own in England.

1567. Where an unemancipated daughter of an *Irishman*, not having acquired any settlement of his own in *England*, became pregnant, being *unmarried*, and as such was actually *chargeable* under the 35 *Geo.* 3. *c.* 101. *s.* 6. (*see p.* 367, *pl.* 1534, *ante*); it was held, that this did not make her father and the rest of his family removeable by a pass to *Ireland*, under the 59 *Geo.* 3. *c.* 12. *s.* 33, *p.* 371, *pl.* 1559; but that the daughter might be removed to the place of her birth in *England*. *Rex v. Whitehaven, E.* 3 *Geo.* 4. 5 *Barnewall and Alderson's Reports*, 720. 2 *Nolan's Poor Laws*, 257.

As to Soldiers, &c. (*see p.* 383, *pl.* 1599).

Soldiers may set up trades, and not be removable while carrying on such trades.

1568. Officers, mariners, soldiers, and marines, who have served since the 29th November, 1784, and not deserted, (and, by the statute, all militiamen, being married men, who have personally served in active service for five years, and also who have been employed since the 22d of June, 1802), and also fencibles who have served five years, and been honourably discharged, and also their wives and children, may set up trades in any city, town corporate, or other place, without any molestation by reason of using such trades; nor shall they, or their wives or children, *during the time they shall exercise such trades*, be removeable * to their place of settlement, *until* they shall become actually chargeable. 3 *Geo.* 3. *c.* 8. 42 *Geo.* 3. *c.* 69. 42 *Geo.* 3. *c.* 60. *s.* 3. 42 *Geo.* 3. *c.* 90. *s.* 75. 56 *Geo.* 3. *c.* 67.

Working as a husbandman.

1569. Working as a *husbandman*, is not a trade

---

* These provisions are rendered nugatory, as far as removals are concerned. See *p.* 366, *pl.* 1531, *ante*.

within the meaning of the 56 *Geo.* 3. *c.* 67. and such person may be removed. *Rex v. Gwennup, H.* 29 *Geo.* 3. 3 *Term Reports,* 133. 2 *Bott,* 541.

As to the Order of Removal.

Orders of removal how to be executed.

1570. All orders of removal are to be executed by the officers of the removing parish. *St. George v. St. Olave, E.* 1 *Anne.* 2 *Salkeld's Reports,* 493. 2 *Bott,* 665. 2 *Nolan's Poor Laws,* 230.

In extra-parochial places.

1571. Where a place is extra-parochial, and hath no overseers, the justices *cannot* remove from thence, because there are none either to complain or to convey; *but the justices ought first to appoint overseers, and then remove. The Forest of Dean v. Linton,* 12 *W.* 3. 2 *Salkeld's Reports,* 487. *Foley's Poor Laws,* 96, 97. 2 *Bott,* 630. (*See Rex v. Saighton, p.* 364, *pl.* 1524, *ante.*)

Extra-parochial places not having overseers.

1572. Nor can the justices remove to extra-parochial places which hath no overseers, because there are none to receive them. *Bridewell v. Clerkenwell, H.* 4 *W.* 3. 2 *Salkeld's Reports,* 486. 2 *Bott,* 629. *Rex v. Tamworth, T.* 17 *Geo.* 3. *Caldecott's Settlement Cases,* 28. 2 *Bott,* 633. 2 *Nolan's Poor Laws,* 158. 167. 212.

A pauper may be removed by any one employed by the parish officers.

1573. But now a pauper ordered to be removed, may be conveyed by any person whomsoever employed for that purpose by the churchwardens and overseers, or others having the management of the poor. 54 *Geo.* 3. *c.* 170. *s.* 10.

Order of removal made to a wrong place.

1574. If an order of removal is made to a wrong place, it is conclusive, if unappealed against. *Spittalfields v. Bromley, E.* 11 *Ann.* 18 *Viner's Abridgement,* 468. 2 *Bott,* 684. 2 *Nolan's Poor Laws,* 145. 232. *Rex v. Kirkby Stephen, T.* 10 *Geo.* 3. *Burrows' Settlement Cases,* 664. 2 *Bott,* 687. 2 *Nolan's Poor Laws,* 146. 232.

Removal to a village as part of a parish.

1575. A removal of a pauper to a village, a part of a parish, is void. *Rex v. Swalcliffe, H.* 23 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 248. 2 *Bott,* 690. 2 *Nolan's Poor Laws,* 145. 212, 213.

Misdirection of the order of removal.

1576. An order of removal directed *to the parish of P,* or *town and county of P,* there not being any such parish *as the parish of P,* the town and county of *P* consisted but of *one parish,* and the name of that parish was *St. James's in Poole;* the court held, that there was no objection to the description of the parish omitting the mention of its *tutelary saint,* there being but one parish in the town and county of *P,* and *P* being the common name of the place. *Rex v. Topsham, T.* 46 *Geo.* 3. 7 *East's Reports,* 466. 2 *Nolan's Poor Laws,* 231.

As to the Complaint to the Justices.

The complaint whom to be made by.

1577. The complaint, being the foundation of the justices' jurisdiction, must be made by the churchwardens or overseers. *Rex v. Harely, H.* 12 *Geo.* 2. *Andrews's Reports,* 361. 2 *Bott,* 641. 2 *Nolan's Poor Laws,* 206. 218. *Western Rivers v. St. Peter's, E.* 1 *Anne.* 2 *Salkeld,* 492. 3 *Salkeld's Reports,* 254. 2 *Bott,* 639. 2 *Nolan,* 206. 218. *Spalding v. St. John Baptist, M.* 9 *Anne.* *Foley's Poor Laws,* 267. 2 *Bott,* 639. 2 *Nolan,* 218.

As to the Style and Jurisdiction of the Justices.

The justices authority must appear on the face of the order.

1578. An order of removal was quashed, because it did not appear that it was made by two justices; it was only, "Whereas complaint hath been made unto us," without reciting the authority as justice. *Walton v. Chesterfield, M.* 8 *W.* 5 *Modern Reports,* 323. 2 *Bott,* 629. 2 *Nolan's Poor Laws,* 215.

Complaint to one justice must be heard by two.

1579. The complaint may be made to *one* justice, but *two* ought to be together at the adjudication, hearing, and examination. *Rex v. Westwood, H.* 4 *Geo.* 1. *Report of Cases in K. B. concerning Poor,* 107. 1 *Strange's Reports,* 73. 2 *Bott,* 631. 2 *Nolan's Poor Laws,* 206. *Rex v. Wykes, T.* 11 *Geo.*

2. 2 *Strange's Reports*, 1092. 2 *Bott*, 642, 643. 2 *Nolan's Poor Laws*, 208. (*See p.* 382, *pl.* 1594).

Order not void if signed by the justices separately.

1580. But an order of removal signed by *two* justices *separately* is not *void*, but only voidable if appealed against in due time. *Rex v. Stotfold, E.* 32 *Geo.* 3. 4 *Term Reports*, 596. 2 *Bott*, 634. 2 *Nolan's Poor Laws*, 144. 211. (*See p.* 382. *pl.* 1596. *post.*)

What the order should state.

1581. The order should state that the justices are *justices of the peace for the county, &c. Reg. v. Uplin*, 12 *Anne. Reports of Cases in the K. B. concerning Poor*, 27. *Rex v. Oulton, M.* 13 *Geo.* 1. 2 *Sessions Cases*, 76. 2 *Salkeld's Reports*, 474. 2 *Bott*, 637. 2 *Nolan's Poor Laws*, 217.

Direction of the order.

1582. An order of removal directed to the parish of *W.* in the county of *Rutland*, and also to the parish of *M.* in the county of *Leicester*, and the words "county of *Rutland*" written in the margin, and the magistrates were in a subsequent part of the order described as justices of the peace *for the county aforesaid;* it was held that it thereby sufficiently appeared that they were justices for the county of Rutland. *Rex v. St. Mary, Leicester, H.* 38 *Geo.* 3. *Barnewall and Alderson's Reports*, 327. 2 *Nolan's Poor Laws*, 216.

Justices of the quorum.

1583. An order of removal shall not be set aside for not setting forth that one of the justices was of the *quorum*. 26 *Geo.* 2. *c.* 27 *.

All acts, orders, &c. executed by two justices acting in a city, &c. is valid.

1584. After 23d May, 1823, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments soever, executed by *two* or more justices qualified to act in any *city, borough, town corporate, franchise*, or *liberty*, or other local juris-

---

* Intituled "An act to confirm certain acts and orders made by justices of the peace, being of the *quorum*, notwithstanding any defect in not expressing therein that such justices of the peace are of the *quorum*."

diction, shall be valid, although neither of the justices shall be of the *quorum*. 4 *Geo.* 4. *c.* 27.

As to the County.

1585. The county must be mentioned in the body of the order as well as in the margin. *Reports of Cases in the K. B. concerning Poor*, 151. 2 *Sessions Cases*, 181. *Rex v. St. Stephenson, T.* 2 *Geo.* 2. 1 *Barnardiston's Reports*, 177. 196. *Rex v. Holbeck in Leeds, M.* 16 *Geo.* 2. *Burrows' Settlement Cases*, 198. 2 *Bott*, 666. 2 *Nolan's Poor Laws*, 217. The county must be mentioned in the body of the order.

As to the Description of the Pauper.

1586. The pauper must be named in the order, if *known*, or if *unknown* state him to be so, as a *certain man* (or *woman*) *unknown*. *Southwell v. Needwell, M.* 11 *Anne*. *Reports of Cases in K. B. concerning Poor*, 57. 2 *Bott*, 667. 2 *Nolan's Poor Laws*, 223. Description of the pauper.

1587. All the parties complained of must be stated in the order. *Reg. v. Newington, T.* 10 *Anne*. *Reports of Cases in K. B. concerning Poor*, 45. 2 *Bott*, 640. 2 *Nolan's Poor Laws*, 220. Parties.

1588. Children must be described by their names and age. *Johnson's Case, H.* 10 *W.* 2 *Salkeld's Reports*, 485. 2 *Bott*, 658. 2 *Nolan's Poor Laws*, 223. *Beaston v. Scisson, M.* 5 *Geo.* 1. 1 *Strange's Reports*, 114. 2 *Nolan's Poor Laws*, 223. *Flixton v. Royston, T.* 9 *Anne*. 1 *Sessions Cases*, 11. *Foley's Poor Laws*, 278. 2 *Nolan's Poor Laws*, 223. *Ringmore v. Petworth, T.* 10 *Anne*. *Reports of Cases in K. B. concerning Poor*, 41. 2 *Nolan's Poor Laws*, 224. *Hobey v. Kingsbury, T.* 8 *Geo.* 1. 1 *Strange's Reports*, 527. 2 *Bott*, 662. 2 *Nolan's Poor Laws*, 220. 223. How children ought to be described.

1589. There must be an adjudication as to the place of settlement. *Reg. v. Middleham, M.* 9 *Anne*. Adjudication of the place of settlement.

Foley's Poor Laws, 271. 2 *Bott*, 660. 2 *Nolan's Poor Laws*, 224. 228.

Ages of children set forth.

1590. The ages of children must be stated in the order. *Rex v. Trinity in Chester, H.* 11 *Geo.* 1. 2 *Sessions Cases*, 74. 2 *Bott*, 667. 2 *Nolan's Poor Laws*, 224.

Where they are removed to the father's settlement.

1591. Where children are removed in consequence of their father's settlement, either their ages must be set out (*to show that they are of such tender years as not to have gained a settlement for themselves*) or there must be an *express* adjudication of their having *not* gained any other settlement. *Rex v. Bowling, H.* 15 *Geo.* 2. *Burrows' Settlement Cases*, 177. 2 *Nolan's Poor Laws*, 224.

What the order must set forth.

1592. The order must set forth that the party *hath come to inhabit, &c. Graffham, E.* 12 *Anne. Reports of Cases in the K. B. concerning Poor*, 16. 2 *Bott*, 640. 2 *Nolan's Poor Laws*, 219.

As to the Examination of the Pauper.

What the order must state.

1593. It must be stated that the order was made upon *examination* (*or upon due consideration*), and it is not necessary *to state* that it was upon oath. *Munger v. Hemger, v. Warden, H.* 10 *Geo.* 1. 2 *Sessions Cases*, 40. 2 *Bott*, 642. 2 *Nolan's Poor Laws*, 222, 223. *Rex v. Fisherton Delamere, H.* 13 *Geo.* 2. *Sessions Cases*, 45.

One justice may summon pauper to be examined before two justices.

1594. The complaint may be to *one* justice, who may order a pauper to be brought to be examined, but *two* must be present at the examination. *Ware v. Stanstead, Mount Fitchet, T.* 12 *W.* 3. 2 *Salkeld's Reports*, 483. 2 *Bott*, 642. 2 *Nolan's Poor Laws*, 208. 222. *Rex v. Wykes, T.* 11 *Geo.* 2. 2 *Strange's Reports*, 1092. 2 *Bott*, 642. 2 *Nolan*, 208. (*See p.* 379. *pl.* 1579.

Order not signed by the justices separately, voidable.

1595. The examination taken and the order signed by two justices separately, is not *void*, but only *voidable* if appealed against in due time. *Rex v. Stitfield, E.* 32 *Geo.* 3. 4 *Term Reports*, 596. 2 *Bott*, 634. 2 *Nolan's Poor Laws*, 144. 211. (*See p.* 380. *pl.* 1580. *ante.*)

1596. The question, whether a pauper becoming insane, either his *examination* previously taken by justices of the same county, or *hearsay testimony* of his former declarations be admissible in evidence; the court were divided in opinion. *See Phillips's Law of Evidence, 5th edition, and Peake's Evidence, 5th edition.*

Examination where a pauper becomes insane.

1597. An examination of a pauper, for the purpose of removal, is not evidence upon an appeal against an order of removal, though the pauper cannot be found. *Rex v. Nuncham Courtney, E.* 41 *Geo.* 3. 1 *East's Reports*, 373. 2 *Bott*, 653. 1 *Nolan's Poor Laws*, 491.

Examination of a pauper in order to remove him, is not evidence on appeal.

1598. Neither the *hearsay* of a pauper who is dead, nor his *ex parte examination in writing* taken on oath before two magistrates touching his settlement, are admissible evidence of such settlement. *Rex v. Ferry Frystone, otherwise Ferry Bridge, M.* 42 *Geo.* 3. 2 *East's Reports.* 2 *Bott*, 656. 1 *Nolan's Poor Laws*, 491. 1 *Phillips's Law of Evidence*, 229. *Rex v. Abergwilly, M.* 42 *Geo.* 3. 2 *East's Reports*, 63. 2 *Bott*, 657. 1 *Nolan*, 491.

Hearsay evidence.

1599. "It shall be lawful for any justice of the peace *or magistrate* for the county, town, or place, where any non-commissioned officer or soldier shall be quartered *in any part of the united kingdom*, in case such non-commissioned officer or private soldier have either a wife, or child, or children, to cause such non-commissioned officer or soldier to be summoned before him, in the town or place where such non-commissioned officer or soldier shall be quartered, in order to make oath of the place of his last legal settlement, *if such non-commissioned officer or soldier shall belong to any parish or place in that part of Great Britain called England* (which oath such justice or *magistrate* is empowered to administer); and such non-commissioned officer or private soldier as aforesaid is directed to obey such summons, and to make oath accordingly, and such justice or magistrate is required to take the examination of such non-commissioned officer or soldier in writing, and to give an attested copy of the examination so taken before

Clause in the 7th Geo. 4. s. 72, relating to the settlement of soldiers for their wives and children when quartered in any part of the united kingdom.

him to the person so examined, to be by him delivered to his commanding officer in order to be produced when required, which said examination and such attested copy shall be at any time admitted in evidence as to such last legal settlement, before any of his majesty's justices of the peace, or at any general or quarter sessions of the peace, although such non-commissioned officer or soldier be dead or absent from the kingdom. Provided always, that in case any non-commissioned officer or private soldier shall be again summoned to make oath as aforesaid, then on examination, or such attested copy thereof being produced by him or by any other person on his behalf, such non-commissioned officer or soldier shall not be obliged to take any other or further oath with regard to his legal settlement, but shall leave a copy of such examination, or a copy of such attested copy of examination if required." 7 *Geo.* 4. *s.* 72. (*Passed 24th March,* 1826.)

The pauper ought to be summoned.

1600. The pauper himself ought to be summoned and heard. *Rex v. Wykes, T.* 11 *and* 12 *Geo.* 2. *Andrews's Reports,* 238. 2 *Bott,* 543. 2 *Nolan's Poor Laws,* 208.

Not necessary in all cases.

1601. But it appears it is not necessary in all cases that the pauper *himself* should be examined, *as in the case of an infant of tender years.* (*See Comberback,* 478. *Rex v. Everdon, post.*) *Rex v. Bagworth, E.* 22 *Geo.* 3. *Caldecott's Reports of Settlement Cases,* 179. 2 *Bott,* 644. 2 *Nolan's Poor Laws,* 206, 207. 223.

Pauper refusing to be examined.

1602. A pauper refusing to be examined and answer questions as to the place of his last legal settlement may be committed "until he shall answer," and when he will answer he must give notice to the magistrates, as in the case of a commitment by the commissioners of a bankrupt, where the party committed must send word when he will submit and answer the question. *Rex v. Jackson and another, E.* 27 *Geo.* 3. 1 *Term Reports,* 653. 2 *Bott,* 649. 2 *Nolan's Poor Laws,* 209.

Examination of prisoners having wife or child as to settlement.

1603. "It shall be lawful for any justice of the peace to take in writing the examinations on oath of

any person having a wife or child, who shall be a prisoner in any gaol or house of correction, or in the custody of the keeper of any such gaol or house of correction, or who shall be in the custody of any constable or other peace officer by virtue of any warrant of commitment, touching the place of his or her last legal settlement, and such examination shall be signed by such justice taking the same, and shall be received and admitted in evidence as to such settlement before any justices, for the purposes of any order of removal, so long as the person so examined shall continue a prisoner." 59 *Geo.* 3. *c.* 12. *s.* 38.

In regard to suspending the Order of Removal.

Any magistrate may take the examination of an infirm pauper, as to his settlement, and report to petty sessions.

1604. "Whenever it shall happen that any pauper is by age, illness, or infirmity unable to be brought up to the petty sessions to be examined as to his or her settlement, it shall be lawful for any one magistrate acting for the district where such pauper shall be, *to take the examination* of the said pauper, and *to report* the same to any other magistrate or magistrates acting for the said district, and for the said magistrates upon such report to adjudge the settlement of the said pauper, and make and suspend the order of removal, as fully and effectually to all intents and purposes as if the said pauper had appeared before two magistrates." 49 *Geo.* 3. *c.* 124. *s.* 4.

Justices empowered to suspend orders of removal of sick or infirm persons.

1605. Poor persons are often removed or passed to the place of their settlement during the time of their sickness, to the great danger of their lives; for remedy whereof it is enacted, that in case any poor person shall from henceforth be brought before any justice or justices of the peace, for the purpose of being removed from the place where he or she is inhabiting or sojourning, by virtue of any order of removal, or of being passed by virtue of any vagrant pass, and it shall appear to the said justice or jus-

tices, that such poor person is unable to travel, by reason of sickness or other infirmity, or that it would be dangerous for him or her so to do, the justice or justices making such order of removal, or granting such vagrant pass, are hereby required and authorised *to suspend* the execution of the same, until they are satisfied that it may safely be executed, without danger to any person who is the subject thereof; which suspension of, and subsequent permission to execute the same, shall be respectively indorsed on the said order of removal or vagrant pass, and signed by such justice or justices; and no act done by any such poor person continuing to reside in any parish, township, or place, under the suspension of any such order, shall be effectual, either in the whole or in part, for the purpose of giving him or her a settlement in the same; and the charges proved upon oath to have been incurred by such suspension of any order of removal may, by the said justices, be directed to be paid by the churchwardens and overseers of the parish or place to which such poor person is ordered to be removed, in case any removal shall take place, or in case of the death of such poor person before the execution of such order; and if the churchwardens or overseers of the parish, township, or place, to which the order of removal shall be made, or any or either of them, shall, upon the removal or death of such poor person ordered to be removed, *refuse* or *neglect* to pay the said charges within *three* days after demand thereof, and shall not, within the same time, give notice of appeal, as is hereinafter mentioned, it shall and may be lawful for one justice of the peace, by warrant under his hand and seal, to cause the money mentioned in such order to be levied by distress and sale of the goods and chattels of the person or persons so refusing or neglecting payment of the same, and also such costs attending the same, not exceeding forty shillings, as such justice shall direct; and if the parish, township, or place, to which the removal of such poor person is made, or was ordered to be made, before the death of such person as aforesaid,

Charges incurred by such suspension to be paid by the officers of the parish to which they are ordered to be removed, which may be levied with costs.

be without the jurisdiction of the justice of the peace issuing the warrant, then such warrant shall be transmitted to any justice of the peace having jurisdiction within such parish, township, or place as aforesaid, who, upon receipt thereof, is hereby authorised and required to indorse the same for execution: provided nevertheless, that if the sum so ordered to be paid, on account of such costs and charges, exceed the sum of twenty pounds, the party or parties aggrieved by such order, may appeal to the next general quarter sessions against the same, as they may do against an order for the removal of poor persons by any law now in being; and if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may and is hereby directed to strike out the sum contained in the said order, and insert the sum which in the judgment of such court ought to be paid; and in every such case the said court of quarter sessions shall direct, that the said order so amended shall be carried into execution by the said justices by whom the order was originally made, or either of them, or in case of the death of either of them, by such other justice or justices as the said court shall direct: provided that nothing in this act contained shall extend to alter or abridge the power of justices of the peace to pass or punish vagrants in the manner and under the circumstances set forth in stat. 17 *Geo.* 2. *c.5.** (except so far as regards the power of suspending the vagrant pass, in the manner and for the causes before mentioned)." (*See* 49 *Geo.* 3. *c.* 124.)

If costs exceed 20*l.* appeal may be made to the quarter sessions.

This act not to alter the power of justices to pass or punish vagrants by 17 Geo. 2. c. 5. except as to suspension.

1606. An order of removal made by two justices, upon the examination of the pauper taken by one of them, previous to the 49 *Geo.* 3. *c.* 124. *s.* 4, (*see p.* 388, *pl.* 1608, *post*,) need not state the special cir-

* Repealed by the 3 *Geo.* 4. *c.* 40. which is expired, and now by the 5 *Geo.* 4. *c.* 83. *s.* 1; the 32 *Geo.* *c.* 45. *s.* 4. is repealed by *s.* 2. of the same act.

cumstances of taking the examination, &c. *Rex v. South Lynn, All Saints, M.* 56 *Geo.* 3. 4 *Maule and Selwyn's Reports*, 354.

Justice must indorse warrant of distress.

1607. Justices cannot refuse indorsing the warrant of distress for non-payment of the costs of the suspension. It is peremptory upon them so to do. *Rex v. Kynaston, M.* 41 *Geo.* 3. 1 *East's Reports*, 117. 2 *Bott*, 680. 2 *Nolan's Poor Laws*, 328, 3*d edit.*

Where the pauper is too ill to be removed.

1608. If at the time of making an order of removal, the pauper is *too ill* to be removed, and an order of suspension is made, his presence is not necessary if he *is ill*, and *unfit* to *move*. *Rex v. Evardon, M.* 48 *Geo.* 3. 9 *East's Reports*, 101. *Bott continued to* 1814, 111. 2 *Nolan's Poor Laws*, 242. (*See p.* 387, *pl.* 1606, *ante.*)

The power of justices in ordering costs of removal, confined to two cases only.

1609. The power given to magistrates under the 35 *Geo.* 3. *c.* 101. *s.* 2. (*see p.* 385, *pl.* 1604, *ante,*) of ordering the charges incurred, during the suspension of an order of removal, to be paid by the parish to which the order is made, is confined to two cases only, viz. *the death or removal of the pauper;* and therefore when a pauper, during the suspension of an order of removal, became irremoveable, in consequence of an estate descending to him, it was held, that such a case was not within the act, and that the pauper, not having been removed, no order for the payment of any charges in and during the suspension of the original order of removal could be made. *Rex v. Chagford, H.* 1 *and* 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports*, 235. 2 *Nolan's Poor Laws*, 245.

In all cases where any order or vagrant pass shall be suspended, any other justice of the county or place where such removal or vagrant pass shall be made, may order the same to be executed, and charges to be paid.

1610. In case any poor person shall be brought before any justice or justices of the peace, for the purpose of being removed from the place where he or she is inhabiting or sojourning, by virtue of any order of removal, or of being passed by virtue of any vagrant pass, and it shall appear to the said justice or justices that such poor person is unable to travel by reason of sickness or other infirmity, or that it would be dangerous for him or her so to do, the justice or justices making such order of removal, or

granting such vagrant pass, are required and authorised to suspend the execution of the same, until they are satisfied that it may safely be executed without danger to any person who is the subject thereof, and that the charges proved upon oath to have been incurred by such suspension of any order of removal, may by the said justices be directed to be paid by the churchwardens and overseers of the parish or place to which such poor person is ordered to be removed, in case any removal shall take place, or in case of the death of such poor person before the execution of such order: and by the same act it is further enacted, that in case of an appeal against any order for the payment of such charges, if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may, and is thereby directed to strike out the sum contained in the said order, and insert the sum which in the judgment of such court ought to be paid; and in every such case the court of quarter sessions shall direct that the said order so amended shall be carried into execution by the said justice by whom the order was originally made, or either of them, or in case of the death of either of them, by such other justice or justices as the court shall direct. And whereas it is expedient that the power of putting an end to the suspensions of any such order of removal or pass, and of executing the several or other authorities aforesaid, should not be confined to the order of the justice or justices making such order or pass: "It is enacted, that in all cases wherever the examination of any order of removal, or of any vagrant pass, shall be hereafter suspended, by virtue of the said recited act, it shall be lawful for any other justice or justices of the peace of the county, or other jurisdiction, within which such removal or pass shall be made, to direct and order that the same shall be executed, and to direct the charges to be incurred as aforesaid to be paid, and to carry into execution any such orders as aforesaid, as fully and effectually to all intents and purposes, as the said respective powers and authori-

ties can or may be executed by the said justices who shall make any such order of removal, or by the justice who shall grant any such pass as aforesaid." 49 *Geo.* 3. *c.* 124. (*reciting the* 35 *Geo.* 3. *c.* 101.)

On service of an order of removal, the original must be shown.

1611. An order of removal was dated the 1st *August,* 1814, and an order of suspension indorsed thereon, in consequence of the sickness of the pauper; and a copy of such order and indorsement was, in 1814, served upon the appellants, but the original order not produced at the time of serving such copy, and subsequently, in 1815, another part of the order and indorsement, executed by the same justices, but bearing date *in August,* 1814, was served upon the appellants. The pauper was not removed till 1819, when an appeal was duly entered. It was held, that the services of the original order of removal in 1814 and 1815 were both defective, and that the appeal was made in time, notwithstanding the 49 *Geo.* 3. *c.* 124. *s.* 2. (*See the next pl.*) *Rex v. Inhabitants of Alnwick, M.* 2 *Geo.* 4. 5 *Barnewall and Alderson's Reports,* 184.

As to the time of appealing against the order of removal.

1612. When the execution of any such order of removal shall be suspended, the time of appealing against such order shall be computed, according to the rules which govern other like cases, from the time of serving such order, and not from the time of making such removal under and by virtue of the same. 49 *Geo.* 3. *c.* 124. *s.* 2.

Where an order or vagrant pass is suspended, the execution of it shall also be suspended.

1613. Where any order of removal or vagrant pass shall be suspended, on account of the dangerous sickness or other infirmity of any person or persons thereby directed to be removed or passed, the execution of such order of removal or vagrant pass shall also be suspended for the same period, with respect to any other person named therein who was actually of the same household or family of such sick or infirm person or persons, at the time of such order of removal or vagrant pass granted. *Ibid. s.* 3.

The order of suspension ought to be taken off before the removal

1614. Order of removal suspended on account of the husband's sickness, who afterward dies, and the wife and children removed without taking off the

suspension. *The order of suspension ought to be taken off before the removal of the widow and children. Rex v. Inhabitants of Englefield, H.* 51 *Geo.* 3. 13 *East's Reports,* 307. *Bott continued to* 1814, 112. 2 *Nolan's Poor Laws,* 248. of a widow and children.

1615. Churchwardens and overseers incur a penalty of 5*l.* for not receiving a person sent by warrant of removal. 3 *W. c.* 11. *s.* 10. Penalty on parish officers not receiving a pauper sent by order.

1616. But the 3 *W. c.* 11. does not relate to removals from parish to parish, but from county to county; and therefore the remedy for not receiving the pauper is by *indictment:* in all cases where a justice has power given him to make an order, and direct it to an inferior ministerial officer, and he disobeys it, and there is no particular remedy prescribed it is *indictable. Rex v. Davis, M.* 28 *Geo.* 2. *Sayer's Reports,* 163. 1 *Bott,* 338. 2 *Nolan's Poor Laws,* 373, 3*d edit.* Refusing to obey the order.

Respecting Paupers returning after Removal.

1617. Paupers removed, and returning without a certificate to the place from whence they were removed, must be charged with the offence on oath, in order to be sent to the house of correction. 13 *and* 14 *Car.* 2. *c.* 12. (*See p.* 365. *pl.* 1527 *and* 1528, *ante.*) *Rex v. Angell, T.* 8 *Geo.* 2. *Cases in the K. B. in the time of Hardwick,* 124. 2 *Bott,* 681. 2 *Nolan's Poor Laws,* 255, 256. Returning after removal without a certificate.

1618. The warrant of commitment must be for a *time definite,* and it must state to *what place* the pauper returned. *Baldwin and wife v. Blackmoor, Esq. E.* 81 *Geo.* 2. 1 *Burrows,* 595. 2 *Bott,* 682. 2 *Nolan's Poor Laws,* 252. 254. *Rex v. Elerelde, M.* 12 *Geo.* 3. 2 *Bott,* 633. 2 *Nolan,* 255. 258. The warrant of commitment must be for a definite time.

1619. A pauper returning to the parish where he had been removed, and residing upon a tenement of 10*l.* yearly value and upwards; it was held he had a right to return, for that an order of removal only prevents Pauper returning after removal, and residing on a tenement of 10*l.* a year.

a return *in a state of vagrancy. Rex v. Fillougley, M.* 29 *Geo.* 3. 2 *Term Reports,* 709. 2 *Bott,* 684. 2 *Nolan's Poor Laws,* 224. *Mann v. Daver's, Clerk, M.* 60 *Geo.* 3. 3 *Barnewall and Alderson's Reports,* 103.

Respecting the Removal of a Certificate Person, and Reimbursement of Overseers.

Delivery of the certificate.

1620. As to the delivery of the certificate, its forms and extent, *see* 8 *and* 9 *W.* 3. *c.* 30. *s.* 1. *p.* 241.

Overseers to be reimbursed on removing certificate persons.

1621. "Where any overseer or overseers of the poor of any parish or place, or other persons, shall remove back any person or persons, or their families residing in such parish or place, or sent thither by certificate, and becoming chargeable as aforesaid to the parish or place to which such person or persons shall belong, such overseers or other person shall be reimbursed such reasonable charges as they may have been put to in maintaining and removing such person or persons by the churchwardens or overseers of the poor of the parish or place, to which such person or persons is or are removed; *the said charges being first ascertained and allowed of by one or more justices of the peace for the county or place to which such removal shall be made,* which said charges, so ascertained and allowed, shall in case of refusal of payment be levied by distress and sale of the goods and chattels of the *churchwardens and overseers of the poor of the parish or place to which such certificate person or persons is or are removed by warrant or warrants under the hands and seals of such justice or justices, returning the overplus if any there be, which warrant or warrants he or they are hereby required to grant.*" 8 *Geo.* 2. *c.* 29. *s.* 9.

Respecting an Appeal against the Order of Removal.

Power of appeal.

1622. "All persons who think themselves aggrieved by any judgment of such two justices may appeal to the *next quarter sessions of the county.* 13 *and* 14 *Car.* 2. *c.* 12. *s.* 2.

Appeal to the next general quarter sessions.

1623. "And all persons who think themselves aggrieved with any judgment of the said two justices, may appeal to the *next general quarter sessions for the county, riding, city, town corporate or liberty, from which the person was removed.*" 3 *W. and M. c.* 11. *s.* 10.

Appeal.

1624. "If any person or persons shall find him, her, or themselves, aggrieved by any determination which any justice or justices shall make in the laws above said (*that is to say, the adjudication of settlements*), the said person or persons shall have liberty to appeal *to the next general quarter sessions for the said county, riding, division, city, or town corporate.*" *Ibid. s.* 9.

Appeal against an order for removal to be delivered at general or quarter sessions.

1625. "The appeal against any order for the removal of any poor person from out of any parish, township, or place, shall be had, presented, and determined, at the *general or quarter sessions* for the city, division, or riding, wherein the parish, &c. from whence such poor person shall be removed, doth lie, and not elsewhere." 8 *and* 9 *W.* 3. *c.* 30. *s.* 6.

Justices being interested.

1626. On an appeal against an order of removal, the justices who are rated to the poor in either of the contending parishes have no right to vote. *Rex v. Tarpole, M.* 31 *Geo.* 3. 4 *Term Reports,* 71. 2 *Bott,* 716. 2 *Nolan's Poor Laws,* 515.

The pauper may appeal.

1627. The pauper himself may appeal; the act says, *all persons who think themselves aggrieved.* *Rex v. Hartfield, E.* 4 *W. Calthorp's Reports,* 222. 2 *Bott,* 716. 2 *Nolan's Poor Laws,* 488.

The appeal to be to the session of the county.

1628. The appeal ought to be to the session of the county, and not of a corporation or borough. *Rex v. Wendover, E.* 13 *W* 2 *Salkeld's Reports,* 490. 2 *Bott,* 722. 2 *Nolan's Poor Laws,* 494.

Reg. v. Malden, M. 11 *Anne.* 2 *Bott,* 725. 2 *Nolan,* 495, 496. *Rex v. East Donyland, T.* 8 *Geo.* 3. *Burrows' Settlement Cases,* 592. 2 *Bott,* 724. 2 *Nolan,* 496.

Where magistrates of a borough and not a county of itself, hold only a general sessions.

1629. Where by charter the magistrates of a borough, which was a county of itself, held only general sessions twice a year and not quarter sessions; it was held that an appeal against an order of removal might be made to the next general sessions of the peace for such borough. *Rex v. the Justices of the Borough of Carmarthen and County of the same Borough, H.* 1 *and* 2 *Geo.* 4. 4 *Barnewall and Alderson's Reports,* 291. 2 *Nolan's Poor Laws,* 493.

To what Sessions the Appeal shall be made.

Appeal to be to the next session.

1630. The statute directs that the appeal should be made to the *next session,* after the parties find themselves aggrieved, which is not till the removal. *Rex v. Norton, E.* 2 *Geo.* 2. 2 *Strange's Reports,* 831. 2 *Bott,* 723. 2 *Nolan's Poor Laws,* 499. *And so it was held in Milbrooke v. St. John's in Southampton, M.* 1 *Geo.* 1.

That is the next possible sessions.

1631. By the next sessions it is meant the *next possible* sessions. *Rex v. the Justices of the East Riding of Yorkshire, E.* 19 *Geo.* 3. *Douglass's Reports, ed.* 1813. (*See pl.* 1633.)

Where only two days intervene between the removal and the next sessions.

1632. Where two days intervene between the removal and the *next* sessions, the appeal ought to be entered at *that* sessions, and *adjourned* according to the 9 *Geo.* 3. *c.* 7. *s.* 8. *Rex v. the Justices of Herefordshire, M.* 30 *Geo.* 3. 3 *Term Reports,* 504. 2 *Bott,* 727. 2 *Nolan's Poor Laws,* 496. 507.

The next practicable sessions.

1633. The next sessions means the *next practicable* sessions. *Rex v. the Justices of Essex, M.* 58 *Geo.* 3. 1 *Barnewall and Alderson's Reports,* 210. 2 *Nolan's Poor Laws,* 505. (*See pl.* 1631.)

Respecting the Adjournment of Appeal.

Appeal may be adjourned.

1634. The sessions may adjourn an appeal for further consideration. *Rex v. King's Langley, T.* 11 *W.* 3. 2 *Salkeld's Reports*, 605. *Comberbatch's Reports*, 365. 2 *Nolan's Poor Laws*, 436, 3*rd edit.*

Where the justices are divided

1635. Where the justices are divided on an appeal against an order of removal, the clerk of the peace ought to enter an adjournment. *Bodwin v. Warlingen, M.* 23 *Geo.* 2. 2 *Bott*, 738. 2 *Nolan's Poor Laws*, 436. 446, 3*rd edit.*

The Notice of Appeal.

Notice of appeal.

1636. For notice of appeal and time of appeal against an order of removal suspended, *see p.* 390, *pl.* 1612, *ante.*

Reasonable notice is to be given of appeals.

1637. "No appeal or appeals from any order or orders of removal of any poor person or persons whatsoever, from any parish or place to another, shall be proceeded upon in any court or quarter sessions, unless reasonable notice be given by the churchwardens or overseers of the poor of such parish or place, who shall make such appeal, unto the churchwardens or overseers of the poor of such parish or place from which such poor person or persons shall be removed; the reasonableness of which notice shall be determined by the justices of the peace at the quarter sessions, to which the appeal is made; and if it shall appear to them that reasonable time of notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same. 9 *Geo.* 1. *c.* 7. *s.* 8.

Sessions bound to receive an appeal, though no notice given.

1638. The sessions are bound to receive an appeal, although no notice has been given. *Rex v. Justices of Huntingdonshire, E.* 23 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 283. 2 *Bott*, 719. 2 *Nolan's Poor Laws*, 578. 527. *Rex v. Justices of Gloucestershire, E.* 19 *Geo.* 3. *Douglass's Reports, edit.* 1813, 191. 2 *Bott*, 727. 2 *Nolan*, 519.

Unless appellants having had sufficient time, neglected.

1639. Unless they think the appellants had sufficient time to have given notice, and had neglected. *Rex v. Justices of North Riding of Yorkshire*, 29 *Geo.* 3. 3 *Term Reports*, 150. 2 *Bott*, 722. 2 *Nolan's Poor Laws*, 518. 520.

Sessions must enter, and adjourn where no notice given.

1640. It is imperative on the sessions to enter and adjourn the appeal, where no notice has been given to the respondents. *Rex v. Justices of Shropshire, (or Staffordshire), T.* 46 *Geo.* 3. 7 *East's Reports*, 549. 2 *Nolan's Poor Laws*, 521.

Sessions to judge of the reasonableness of the notice.

1641. The sessions have a power to judge of the reasonableness of the notice; and if they are wrong, the court of K. B. will interfere. *Rex v. Justices of Wiltshire, M.* 49 *Geo.* 3. 10 *East's Reports*, 404. *Bott continued to* 1814, 5. 2 *Nolan's Poor Laws*, 508. 513. 515.

In respect to the effect of an Order of Removal unappealed against.

An order unappealed against conclusive.

1642. An order of removal not appealed against, is conclusive: there can be no *second* order reversing the *former*, except by appeal. *Malendine v. Hunsdon, H.* 12 *Anne. Foley's Poor Laws*, 278. *Chalbury v. Chipping Farringdon, T.* 12 *W.* 3. 2 *Salkeld's Reports*, 488. 2 *Bott*, 684. 2 *Nolan's Poor Laws*, 213.

The like.

1643. The original order is conclusive, when unappealed from. *Rex v. Leverington, T.* 21 *and* 22 *Geo.* 2. *Burrows' Settlement Cases*, 276. 2 *Bott*, 715. 2 *Nolan's Poor Laws*, 213.

Exception.

1644. Except where the removal is to a place that does not maintain its own poor separately, or where the justices making the order want jurisdiction. *Rex v. Swalcliffe, H.* 23 *Geo.* 3. *Caldecott's Reports of Settlement Cases*, 248. 2 *Bott*, 633. 2 *Nolan's Poor Laws*, 145. 212. *Rex v. Chilvers Coton, H.* 39 *Geo.* 3. 8 *Term Reports*, 178. 2 *Bott*, 635. 2 *Nolan*, 142. 144. 213. 215.

The order may be given up by consent.

1645. An order of removal may be deserted and given up by consent, without appealing. *Rex v. Llanrhydd, H.* 10 *Geo.* 3. *Burrows' Settlement*

Cases, 658. 2 *Bott*, 686. 2 *Nolan's Poor Laws*, 144. 214.

1646. The removing parish may, by consent, abandon the order; and a subsequent order to another parish held to be good. *Rex v. Inhabitants of Diddlebury, E.* 50 *Geo.* 3. 12 *East's Reports*, 359. *Bott continued to* 1814, 108. 2 *Nolan's Poor Laws*, 144. 214. The order may be abandoned, and an order made to another parish.

Of entering Appeal, when Order of Removal is executed and superseded.

1647. Where an order of removal has been executed, and by consent of the removing parish, and the magistrates making it, it is superseded, and the paupers taken back: it is in the discretion of the sessions to enter an appeal against it or not, according as they may think that justice requires it, in order to compel the respondents to pay the costs of maintenance, &c. incurred by the appellants, before the order was superseded. *Rex v. Justices of Norfolk, H.* 2 *and* 3 *Geo.* 4. 5 *Barnewall and Alderson's Reports*, 484. 2 *Nolan's Poor Laws*, 214. When an order is superseded.

In respect to what Facts it is conclusive, when unappealed against.

1648. An order of removal unappealed against, is conclusive of the *facts* stated in it. *Rex v. Northfeatherton, E.* 5 *Geo.* 2. 1 *Sessions Cases*, 154. Where an order is conclusive.

1649. If two persons are removed as man and wife, it is conclusive of *that fact*, upon the parish removed to, if the order is not appealed against; and *after born* children claiming settlement from the father and mother, are also conclusive as to the fact of marriage. *Nympsfield v. Woodchester, M.* 16 *Geo.* 2. 2 *Strange's Reports*, 1172. *Burrows' Settlement Cases*, 191. 2 *Bott*, 685. 2 *Nolan's Poor Laws*, 143. Persons removed as man and wife, if order not appealed against, conclusive.

1650. And not only in persons removed, but also Not only against the persons them-

selves, but to all derivative settlements.

in all derivative settlements from them. *Rex v. St. Mary, Lambeth,* 6 *Term Reports,* 615. 2 *Bott,* 595. 2 *Nolan's Poor Laws,* 143

Order unappealed against, only conclusive against those who are named in it.

1651. An order of removal unappealed against, is *only* conclusive as to those who are *mentioned* in it, and removed. *Rex v. Southowram, T.* 26 *Geo.* 3. 1 *Term Reports,* 353. 2 *Bott,* 691. 2 *Nolan's Poor Laws,* 144.

A married woman removed under a wrong description.

1652. Where a pauper (*a married woman*) is removed by the name of *A. S. widow,* and not as E. S., the wife of *E. S.*, and the order is unappealed from, it is conclusive, and the circumstance of the party being removed under a *wrong description,* does not take the case out of the general rule. *Rex v. Rudgeley, T.* 40 *Geo.* 3. 8 *Term Reports,* 620. 2 *Bott,* 697. 2 *Nolan's Poor Laws,* 143.

When conclusive as to the question of marriage.

1653. An order of removal of a woman as a wife unappealed against, is conclusive of the question of marriage. *Rex v. Binegar, E.* 46 *Geo.* 3. 7 *East's Reports,* 377. 2 *Nolan's Poor Laws,* 143. 207. 219. 229.

When it is conclusive of the place of settlement.

1654. An order of removal unappealed against, is conclusive of the place of settlement up to the time. *Rex v. Kenilworth, T.* 28 *Geo.* 3. 2 *Term Reports,* 598. 2 *Bott,* 692. 2 *Nolan's Poor Laws,* 142. 146.

Even as between two parishes.

1655. Even where a question of settlement is raised between two parishes. *Rex v. Corsham, T.* 49 *Geo.* 3. 11 *East's Reports,* 388. *Bott continued to* 1814, 113. 2 *Nolan's Poor Laws,* 142. (*See pl.* 1659, *post.*)

Confirming or quashing an Order of Removal upon the Merits.

When conclusive to all persons.

1656. An order confirmed upon the appeal is conclusive to all persons, as well as to the parties; but if an order is reversed, is final only between the two parties. *Mynton v. Stoney Stratford, M.* 13 *W.* 3. 2 *Salkeld's Reports,* 527. *Little Betham v. Somerby, M.* 6 *Geo.* 1. 1 *Strange's Reports,* 232. 2 *Nolan's Poor Laws,* 208.

Conclusive of the then settlement.

1657. If an order of removal is confirmed, it is

conclusive of the *then* place of settlement. *Harrow v. Ryslip, M.* 10 *W.* 3. 2 *Salkeld's Reports,* 261. 2 *Bott,* 700. 2 *Nolan's Poor Laws,* 479, 3*d edit.*

1658. If an order of removal on appeal is reversed, it is conclusive *only* as to the parish acquitted; but the first parish may remove again to any parish not party to the former removal. *St. Michael's Bedingdon v. Kingston Bowsey, H.* 19 *W.* 3. 2 *Salkeld's Reports,* 486. 2 *Bott,* 702, (*n.*) *Foston v. Carleton, T.* 9 *Geo.* 1. 1 *Strange's Reports,* 567. Order reversed conclusive as to the parish acquitted.

1659. An order of removal is, when quashed, conclusive between the *two* parishes; and upon a second removal between the same parishes, *there must appear a new settlement. Rex v. Bradenham, E.* 29 *Geo.* 2. *Burrows' Settlement Cases,* 394. 2 *Bott,* 704. 2 *Nolan's Poor Laws,* 233, 234. (*See pl.* 1655, *ante.*) Order quashed is conclusive between the two parishes.

1660. Special matter may be set forth by the sessions upon the second appeal, which may prevent the first order from being *final. Rex v. Osgathorpe, E.* 19 *Geo.* 2. 2 *Strange's Reports,* 1256. 2 *Bott,* 703. 2 *Nolan's Poor Laws,* 233. Special matter may be set forth.

1661. An order of removal *confirmed* on appeal, is *conclusive to all the world;* but if quashed, is conclusive only between the parties. *Rex v. Cirencester, H.* 8 *Geo.* 2. *Burrows' Settlement Cases,* 17. 2 *Bott,* 702. 2 *Nolan's Poor Laws,* 480, 3*d edit.* An order confirmed on appeal, conclusive to all the world.

1662. An order of removal discharged to *A.* does not prevent a third parish from showing a settlement in *A.*, gained subsequently to the order in question. *Rex v. Bentley, E.* 30 *Geo.* 2. *Burrows' Settlement Cases,* 425. 2 *Bott,* 704. 2 *Nolan's Poor Laws,* 234. Order discharged.

1663. And the justices, upon an appeal, shall do to the parties justice, *according to the merits of their cause.* 13 *and* 14 *Car.* 2. *c.* 12. *s.* 2. Merits.

In respect to quashing an Order of Removal for want of Form.

1664. An order of removal quashed on appeal, for Order quashed for

want of form, is not conclusive.

want of form only, is *not conclusive* between the *two parishes*. *Foley's Poor Laws*, 276.

Defective orders may be amended.

1665. On appeals to the sessions against the judgments or orders of justices of the peace, the justices there shall cause defects of form to be amended*. 5 *Geo.* 2. *c.* 19. *s.* 1.

Order quashed for form, not conclusive.

1666. But if an order of removal is quashed for form, it does not conclude the parties. *Rex v. St. Andrew, Holborn, E.* 26 *Geo.* 3. 6 *Term Reports*, 613. 2 *Bott*, 706. 2 *Nolan's Poor Laws*, 234.

Complaint by the parish officer before removal.

1667. There must be a *complaint* from the overseers, otherwise the justices have no power to remove; and a certificated person must be *adjudged* to be actually chargeable, otherwise he cannot be removed. *Rex v. Great Bedwin, T.* 15 *Geo.* 2. 2 *Sessions Cases*, 142. 2 *Strange's Reports*, 1158. *Burrows' Settlement Cases*, 163. 2 *Bott*, 714. 2 *Nolan's Poor Laws*, 194. 216. 218. 220.

Want of jurisdiction in justices making the order.

1668. Where the justices making the order want jurisdiction, it is a matter of *substance*, and not *of form*; and such an order, although not appealed against, is totally void, and cannot be amended. *Rex v. Chilverscoton, H.* 39 *Geo.* 3. 8 *Term Reports*, 78. 2 *Bott*, 695. 2 *Nolan's Poor Laws*, 142. 213. 215.

Of the Judgment of Justices in Sessions upon Order of Removal.

The quarter sessions cannot make an original order.

1669. The court of quarter sessions cannot make an original order of removal, they must either *quash* or *affirm*. *Rex v. Bond, M.* 2 *Jac.* 2. 2 *Shower's*

---

* Lord Kenyon (in the case *Rex v. Moor Critchell*, 2 *East's Reports*, 66) said, it was to be lamented that this statute, which was intended to give the justices in sessions a power of amending orders of removal which were defective in point of form, had by the construction which had been put upon it been rendered a dead letter.

Reports, 503. 2 *Bott*, 709. 2 *Nolan's Poor Laws*, 447, 3*d edit.* *Rex v. Oswell and Woking*, *E.* 8 *W.* 3. 2 *Salkeld's Reports*, 472. 2 *Bott*, 711. 2 *Nolan*, 447, 3*d edit.* *Rex v. Milverton*, *E.* 1 *Anne.* 2 *Bott*, 712. 2 *Nolan*, 447. 3*d edit.*

1670. The sessions being on a day, the justices may alter an order at any time while it continues. *St. Andrew, Holborn, v. St. Clement Danes*, *M.* 3 *Anne.* 2 *Salkeld's Reports*, 494. 2 *Bott*, 712. 2 *Nolan's Poor Laws*, 448, 3*d edit.*

If the justices are divided in opinion on appeal.

1671. Where justices are divided in opinion, and there is no possibility of proceeding on appeal, as there would be a failure of justice in such case, an information will lie against the justices at the sessions, who ought to adjourn the appeal till, by the coming of more justices, the matter may be determined. *Rex v. Justices of Westmoreland*, *T.* 8 *and* 9 *Geo.* 2. 2 *Sessions Cases*, 193. 2 *Bott*, 713. 2 *Nolan's Poor Laws*, 446, 3*d edit.*

Judgment by mistake, by miscalculation of votes.

1672. Where judgment was entered by mistake on a miscalculation of votes, *a mandamus was refused;* for the justices in sessions may alter the judgments during the sitting of the court. *Rex v. Justices of Leicestershire*, *E.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports*, 442. *Bott, continued to* 1814, 114. *Battersea v. Westham*, *E.* 10 *W.* 3. 2 *Bott*, 712. 2 *Nolan's Poor Laws*, 449, 3*d edit.*

Session cannot make an order of review.

1673. But the sessions cannot make an order of review, and quash an order of sessions made at the last preceding sessions. *Rex v. Cuckfield*, *H.* 8 *W.* 3. 2 *Bott*, 711. 2 *Nolan's Poor Laws*, 449, 3*d edit.*

Respecting the stating a special Case.

Justices not bound to give a reason for their judgment;

1674 Justices are not bound to express the reason of their judgment. 1 *Ventris's Reports*, 310. *South Cadbury v. Bradden*, *M.* 9 *Anne.* 2 *Salkeld's Reports*, 607. 2 *Bott*, 751. 2 *Nolan's Poor Laws*, 456. 469. 470.

nor to state a special case.

1675. The justices at sessions are not compellable to

state special cases,* though it may be blamable conduct in some instances to refuse. *Rex v. Oulton, M.* 9 *Geo.* 2. *Burrows' Settlement Cases,* 64. 2 *Bott,* 738. 2 *Nolan's Poor Laws,* 457, *3d edit.*

When a bill of exception does not lie.

1676. A bill of exceptions does not lie to the justices at their quarter sessions. *Rex v. Preston upon the Mill,* 89 *Geo.* 2. *Burrows' Settlement Cases,* 77. 2 *Bott,* 713. 2 *Nolan's Poor Laws,* 443. 457. *3d edit.*

Case not stated sufficiently.

1677. Where a case is insufficiently stated, the court of K. B. may send it back to the sessions to be restated. *Rex v. Bray, E.* 11 *Geo.* 3. *Burrows' Settlement Cases,* 682. 2 *Bott,* 743. 2 *Nolan's Poor Laws,* 508. 511. 513, *3d edit.*

Where a pauper will not, or is unable to return to his parish after order quashed.

1678. After the determination of an appeal at the sessions, if the order of removal is quashed, and the pauper will not or is not able to return to the parish from whence he was unlawfully removed; *two* justices of the county where the sessions *are held,* at which the order is quashed, may by order remove him back to the *removing parish* again. *Honiton v. South Beverton, M.* 8 *W.* 3. *Comberback's Reports,* 401. 2 *Bott,* 700. 2 *Nolan's Poor Laws,* 246.

Certiorari to remove an order of removal must be moved for within six months.

1679. A *certiorari* to remove an order of sessions, confirming an order of removal, must be moved for within *six* calendar months after such order of sessions made, and *six* days notice of such motion must be given to the justices, pursuant to the 13 *Car.* 2. *c.* 18. *s.* 5, notwithstanding the order of sessions was made subject to the opinion of the court of K. B. on a case to be stated. *Rex v. Justices of Sussex, T.* 53 *Geo.* 3. 1 *Maule and Selwyn's Reports,* 631. *Bott, continued to* 1814, 31.

---

* Bayley J. (in the case *Rex v. Darley Abbey*) said the magistrates ought not to be induced to send up cases for an opinion, if they have no doubt upon the question in their own minds, in order to avoid incurring unnecessary expenses. *See also the Observations of Bayley J.* 1 *Maule and Selwyn's Reports,* 376.

Respecting the Costs and Maintenance.

1680. "The justices in quarter sessions, in an appeal concerning the settlement of any poor person, may award costs to the party in whose behalf the appeal shall be determined, as to when notice of appeal had been given; and if persons ordered to pay costs reside out of the jurisdiction of the justices of the court of quarter sessions, any justice of the peace of the county, riding, city, liberty, or town corporate, where such person shall inhabit, may cause the money to be levied by distress and sale of the goods of the person who is ordered and ought to pay; and if there is not sufficient distress he may commit such person to the common gaol for twenty days. 8 *and* 9 *W. c.* 30. *s.* 3. Justices in sessions may award costs of appeal.

1681. The justices at their sessions are judges whether costs shall be given or not. *Rex v. the Justices of the County of Nottingham, M.* 5 *Geo.* 2. 1 *Sessions Cases,* 422. 2 *Bott,* 756. 2 *Nolan's Poor Laws,* 477, *3d edit.* The justices in sessions are judges whether costs shall be given or not.

1682. But they cannot give costs on a mere adjournment of the appeal without hearing it. *Rex v. Stanfield, E.* 16 *Geo.* 2. *Burrows' Settlement Cases,* 205. 2 *Bott,* 756. No costs allowed on adjournment without a hearing.

1683. The justices at their quarter sessions, upon an appeal concerning the settlement of any poor person, may order and award in favour of the appellant parish, if the appeal is determined in its favour, so much money as the parish or other place shall have reasonably paid between the time of removal and the determination of the appeal: which money awarded may be received in the manner as costs and charges upon an appeal are to be received. 8 *and* 9 *W.* 3. *c.* 30 (*pl.* 1680. *as above*). 9 *Geo.* 1. *c.* 7. *s.* 9. The justice may award to the appellant what has been paid between removal and appeal.

1684. But the justices at their sessions must either give or refuse costs of maintenance at the time of making their order. *Rex v. Great Chart, M.* 16 *Geo.* 2. *Burrows' Settlement Cases,* 194. 2 *Bott,* 756. 2 *Nolan's Poor Laws,* 477. 525. The sessions must either give or refuse costs.

1685. An order of removal directed to the churchwardens and overseers of a parish, but which in fact Words in an order may be struck out as surplusage.

was only *a vill*, and no churchwardens in it; it was held that the word "*churchwardens*" might be struck out as surplusage, and that the sessions might amend the order under the 5 *Geo.* 2. *c.* 19. *s.* 1. (*p.* 400. *pl.* 1665. *ante*,) by inserting in it the words "*or vill.*" 6 *Geo.* 4. 4 *Barnewall and Creswell's Reports.*

Where the justices in sessions are divided in opinion.

1686. Upon an appeal against an order of removal the justices were equally divided in an opinion upon the question of fact, on which the settlement of the pauper depended; the sessions thinking that it lay on the respondents' parish to establish their case to the satisfaction of a majority of the court, quashed the order of removal; the sessions having decided the case, the court of K. B. refused a *mandamus*; *query*, if the sessions ought to have adjourned instead of quashing the order. *The King v. Justices of Monmouthshire, M.* 6 *Geo.* 4. 4 *Bott's Reports, p.* 846.

Respecting the County Rate.

County rate to be paid out of the poor's rate.

1687. The county rate is made by the justices at their general or quarter sessions, and it is collected by the high constables from the churchwardens and overseers of the poor, who pay it out of the poor rate; if it is not paid within *thirty* days after demand in writing, it may be recovered by distress and sale of the goods of the churchwardens and overseers, by the warrant of two justices; to enable the justices to make an equal assessment, the churchwarders and overseers are required to make a return of the annual value of the rateable property in the parish, verified on oath, under a penalty of 20*l.* 55 *Geo.* 3. *c.* 51.

Respecting the Perambulation of the Parish.

Perambulation of the parish to be made once a year.

1688. The ministers, churchwardens, and parishioners, ought to go over and survey the boundaries of the parish once a year in or about ascension-week. In this perambulation, the parishioners are justified in going over any man's land according to usage, and it is said they may abate all nuisances in the progress.

Respecting the special Sessions to be held for the Highways.

1689. The justices shall hold a special sessions * for the highways in the week next after the *Michaelmas* general quarter sessions yearly. 13 *Geo.* 3. *c.* 78. *s.* 1. Special sessions.

1690. Two or more justices of the peace, at their special seisions to be holden in the week next after *Michaelmas* yearly, shall fix such rates as they shall adjudge reasonable, as a composition in lieu of teams, carts, horses, oxen, or labour: and whereas certain other matters relative to the highways are directed to be done by justices of the peace, at their special sessions to be holden in the week next after the *Michaelmas* quarter sessions: and whereas the time for holding the *Michaelmas* quarter sessions has been altered by an act made in the fifty-fourth year of his present majesty, intituled, *An act for regulating the time of holding the* Michaelmas *quarter sessions;* it is therefore enacted, that it shall and may be lawful for the justices of the peace, assembled in their special sessions in the week after *Michaelmas,* to do and perform every act which they might heretofore legally have done in the special sessions directed to be holden in the week after the said *Michaelmas* general quarter sessions of the peace. 55 *Geo.* 3. *c.* 68. *s.* 6. Justices to fix rates, as a compensation in lieu of teams, &c.

1691. Any two justices within their respective limits may from time to time, whenever they shall judge proper, hold a special sessions, and adjourn the same as they shall think fit; causing notice to be given of the time and place of holding such special sessions, and of the adjournments thereof, to the several justices acting and residing within such Justices may hold special sessions, and adjourn.

---

* A special sessions here means a sitting announced by notices to all the other magistrates of the division.

limits, by the high constable or other proper officer. 13 *Geo.* 3. *c.* 28. *s.* 61.

Diverting and turning a road.

1692. This section is applicable to an order of justices for diverting and turning a road made under the 53 *Geo.* 3. *c.* 6. *s.* 2. *Rex v. Justices of Worcester*, 2 *B. and A.* 228.

Meeting for the appointment of surveyors.

1693. The constables, headboroughs, tithingmen, churchwardens, surveyors of the highways, and householders, being assessed to the parochial rates, are to assemble on the 22d of September yearly, unless that day falls on Sunday; if so, then on the following day, at their usual place of public meeting in the parish, at 11 o'clock in the forenoon, and the major part of them are to make out a list of *ten* persons at least, who are duly qualified to be surveyors * of the highways, and if there shall not be *ten* persons having such qualification, they shall insert in the list the names of so many of such qualified persons, together with the names of so many of the most sufficient and able inhabitants of the parish, &c. not so qualified, as shall make up the number of *ten*, if so many can be found; if not, so many as shall be there resident, to serve the office of surveyor of the highways. 13 *Geo.* 3. *c.* 78. *s.* 1.

The duplicate of the list to be sent to a justice of the peace within three days after the meeting;

1694. The constable, headborough, or tithingmen of the parish, &c. shall, within *three* days after such meeting, *transmit a duplicate of such list to one of the justices* of the peace within the limit of the county, riding, division, hundred, city, corporation, precinct, or liberty, where the parish, &c. shall lie, *living in or near the same;* and shall also return and deliver *the original list* made and agreed upon at such meeting to the justices of the peace at their

---

* The qualification is, that each of them shall have an estate in lands, tenements, or hereditaments within the parish, township, or place, in their own right, or in right of their wives, of the value of 10*l.* by the year, or a personal estate of 100*l.* value, or an occupier of houses, lands, tenements, or hereditaments, of the yearly value of 30*l.*

special sessions, to be held for the highways within that limit, in the week next after the *Michaelmas* general quarter sessions in every year; and shall also, within *three days* after the making the said list, give *personal notice* to, or cause notices in writing to be left at the place of abode of the several persons named in such list, informing them of their being so named, that they may severally appear before the justices at the said special sessions, to accept such office, if they shall be appointed thereto, *or show cause,* if they have any, against their being appointed. *Ibid.*

and a notice is to be given to the persons named in the list.

1695. The said justices are authorised *and required* to hold such special session at such convenient place or places within their respective limits, as they, in their discretion, shall judge proper, and to give notice of the time and place where they intend to hold the same to the constables, headboroughs, or tithingmen of every parish, &c. at least ten days before the holding of such special session. *Ibid.*

Special session to be held at a convenient place.

1696. The justices then and there, from the said lists, according to the largeness of the parish, &c. *at their discretion,* by warrant under their hands and seals, shall appoint *one, two, or more* of such persons, if he or they, in the opinion of such justices, be qualified for the office of surveyor; if not, *one, two, or more,* of the other substantial inhabitants or occupiers of lands, tenements, woods, tithes, or hereditaments within the parish, &c. living within *three miles* thereof, and within the same county, fit and proper to serve the office of surveyor of the highways of such parish, &c. *if any such can be found:* which appointment shall, by the constables, &c. aforesaid, be notified to *every person* so appointed, *within three days* after such appointment, by serving him with the said warrant, or by leaving the same, or a true copy thereof, at his house or usual place of abode; and every person so appointed, if he accepts the office, shall be surveyor for the highways of the said parish, &c. for the year ensuing, and shall take upon him and duly execute the office aforesaid. *Ibid.*

The justices are to appoint the surveyors.

1697. If any of the said persons so appointed, *whose names* were contained in such list, and *who*

Refusing to accept the office.

were served with the said notice, *shall refuse* or *neglect* to appear at the said special sessions, and accept the said office, if appointed thereto in manner aforesaid, or shall not, *within six days* after being served with such warrant of appointment, signify his acceptance thereof, either *in person* or *by writing*, to one of the said justices, he shall forfeit the sum of 5*l*. *Ibid.*

Persons appointed whose names were not in the list refusing to serve.

1698. If any person so appointed, *whose name was not contained* in such list, shall refuse or neglect to accept the said office, or shall not, *within six days* after being served with such appointment, show to one of the justices signing the appointment sufficient cause why he should not serve such office, he shall forfeit 50*s*.

If the magistrates omit to appoint a surveyor at their special sessions, they are bound to appoint at a subsequent special sessions.

1699. If the magistrates, upon proper lists returned to them, omit to appoint a surveyor of the highways at their *first* special sessions, they are bound to make such appointmint at a *subsequent* special session; for the act is only directory as to the time, and there are no negative words to prevent them from exercising their office *at any subsequent period*, if necessary: and common sense requires, that if the appointment be not made at the *first* special sessions, it should be made afterwards. *Rex v. Justices of Derbyshire*, 4 *East*, 142.

The magistrates are not bound to appoint surveyors from the list returned to them.

1700. In the case of *Rex v. Baldwin and others*, 7 *T. R.* 169, a rule was moved for, to show cause why a *mandamus* should not issue to the defendants and the other justices of *Surrey*, commanding them to appoint one or more persons *named in the list* of 21 persons returned to them, to be surveyors of the highways. In fact, the defendants had appointed *two* of the persons *named* in the list, but they had also appointed *a third* surveyor *not* in the list.—Ld. *Kenyon*, Ch. J. By the first section in the act of parliament, if the list of persons returned to the justices do not contain the names of persons whom the justices think qualified, they may appoint any other persons of the parish who are properly qualified. If, indeed, the magistrates act corruptly, they may be punished for an abuse of their dis-

cretionary power; but no corruption is even suggested in this case. The *lists are directed by the act only for the purpose of assisting the magistrates,* who in many instances might not perhaps know a sufficient number of persons fit for the office. Rule discharged.

After serving one year, not liable again for three years.

1701. No person who hath been appointed and hath served the office for *one* year shall be liable to be appointed again for the same parish, &c. within *three* years from the time of such first appointment and service, unless he shall consent thereto. 13 *Geo.* 3. *c.* 78. *s.* 1.

Where no list is returned, &c. the justices shall appoint with salary.

1702. But if no such list shall be made and returned, or if the justices shall make an appointment, and the person appointed shall refuse to serve, the said justices, or any two of them, shall, *at the said special sessions,* or at some *subsequent* special sessions, to be holden *within one month* after, nominate and appoint some other person whom they shall judge proper, and appoint him a salary out of the forfeitures, fines, penalties, assessments, and compositions to be raised within such parish, &c. as they shall think fit, *not exceeding one-eighth part of what shall have been raised by an assessment of* 6*d. in the pound,* for the use of the highways in such parish, &c. where any such assessment hath been raised: and observing the same restriction as near as they can, from the best information they shall be able to get of the probable amount of such assessment, where none hath been already made: and the said justices may, if they think fit, require the constables, &c. and surveyor of such parish, &c., or any of them, to return to the said justices, at such time and place as they shall appoint, an account in writing of the sum which such assessment of 6*d.* in the pound hath raised, or will in his opinion raise within such parish or place. *Ibid.*

Neglect in making the list, and returning it when made to the parties.

1703. If the constables, headboroughs, tithingmen, churchwardens, surveyors, and such householders as aforesaid, shall neglect or refuse to make such list, or if the constable shall not return such list when made, and such duplicate thereof as aforesaid, and

give such notice or notices, and serve such warrants as in this act is directed, or if such constable, &c. and surveyor, or any of them, shall neglect to return such account of the amount of such assessment as aforesaid, when so required, he shall forfeit 40*s*. *Ibid.*

Justices of cities, &c. not to allow salaries to surveyors except in certain instances.

1704. In cities, boroughs, and towns corporate, the justices shall not allow any salary for any surveyor, other than such as shall be agreed on by two parts out of three of the persons assembled in the respective parish, township, or place within such city, borough, or town corporate.

Assistant surveyor.

1705. In all cases where the justices, upon neglect or refusal of the person so appointed surveyor to accept the said office, shall appoint any other with a salary; they shall appoint one substantial inhabitant of such parish, township, or place, for *assistant* to such surveyor, until the *next annual* appointment of surveyors: and if the person so appointed assistant shall, on notice of such appointment, refuse to accept the office, he shall forfeit 50*s*. *Ibid.*

Surveyor refusing to act.

1706. And in that case they shall appoint any other substantial inhabitant for assistant to such surveyor as aforesaid; and if such second appointed assistant shall refuse to accept that office, he shall in like manner forfeit 50*s*. *Ibid.*

A third person may be appointed to be assistant.

1707. And in such case they may appoint a third person in like manner to be assistant to such survey, who shall be entitled to these last-mentioned forfeitures, and also such further allowance by way of salary as the said justices shall think proper, to be paid as the surveyor's salary is hereby directed to be paid. Provided that no person so appointed assistant for one year shall be liable to be appointed assistant again for the same parish, township, or place, within three years next following such appointment, without his consent. *Ibid.*

Bond given by the surveyor.

1708. The surveyor of any parish, township, or place, who shall not reside therein, but shall be appointed with such salary as aforesaid, shall, if required by the churchwarden, overseer, or any prin-

cipal inhabitant, at the time of his appointment, or within *fourteen* days after, give a bond, upon paper without stamp, to some proper person within the parish, &c. to be nominated by such justices, with sufficient surety. *Ibid.*

Duty of assistant surveyor.

1709. The said assistant shall, on request, assist the surveyor in calling in and attending the performance of the statute duty; in collecting the compositions, fines, penalties, and forfeitures; in making and collecting the assessments; in making out and serving notices; and in such other matters as shall be reasonably required of him by the surveyor in the execution of his office; and shall account and pay to the surveyor or his order, from time to time, all the money that shall come to his hands, on pain of forfeiting double. And if he shall wilfully make default in the performance of any of the duty required of him, he shall forfeit not exceeding 5*l.* nor less than 40*s.* *Ibid. s.* 4.

Abstract of the act to be delivered to the surveyors.

1710. The justices shall, at every special sessions, to be holden in the week next after the *Michaelmas* quarter sessions, cause to be delivered a printed abstract of the most material parts of this act to every surveyor to be then appointed by them, as the charge hereby directed to be given. *Ibid. s.* 70.

Fee for the appointment and charge.

1711. And the surveyor shall pay to the justices' clerks for the appointment and charge the sum of one shilling. *Ibid.* 48. 70.

Appointment of special surveyors

1712. If two parts out of three of those so to be assembled for the nomination of surveyors shall agree in the choice of any particular person of skill and experience to serve the office of surveyor, and in settling a certain salary for his trouble therein, and shall return the name of such person (B) together with the list to the justices at their said sessions to be holden in the week next after the *Michaelmas* quarter sessions, the said justices may, if they think proper, appoint such person to be surveyor for such parish, township, or place, and allow him the salary mentioned in such agreement; which shall be raised and paid in the same manner as the salary herein-

before mentioned is directed to be raised and paid. *Ibid. s. 5.*

Surveyor dying.

1713. If a surveyor shall die, or become incapable to execute his office, before the next special sessions for appointing surveyors, two justices, at some special sessions may appoint another whom they shall think proper, until the next special sessions for appointing surveyors as aforesaid. And if such deceased surveyor had a salary, they may allow the same salary to his successor, in proportion to the time he shall serve the said office. *Ibid. s. 5.*

Parish in general to repair.

1714. Of common right (that is, by the common law) the general charge of repairing all highways lies on the occupiers of the lands in the parish wherein they are; but particular persons may also be burdened with the general charge of repairing a highway, in two cases, namely, in respect of an inclosure, or by prescription.

The parish is bound to repair all highways within it, unless there is a prescription.

1715. By the general law of the land, the parish at large is *primâ facie* bound to repair all highways lying within it, unless by prescription they can throw the *onus* on particular persons by reason of their tenure; but when that is the case, it is by way of exception to the general rule. *Per Ashhurst, J. Rex v. Inhabitants of Sheffield, 2 Term Reports,* 106.

Where particular persons are to repair highways.

1716. If particular persons are made chargeable to the repair of such highways by a statute lately made, and become insolvent, the justices of the peace may put the charge upon the rest of the inhabitants. *Anom.* 1 *Ld. Raym.* 725. 1 *Russ.* 465.

Where by a particular statute.

1717. Where it is enacted by a statute, that the paving of a particular street should be under the care of commissioners, and provided a fund to be applied to that purpose; and another statute which was passed for paving the streets of the parish, contained a clause that it should not extend to the particular street. It was held, that the inhabitants of the parish were not exempted from their common law liability to keep the street in repair; that the duty of repairing might be imposed upon others, and the

parish be still liable; and that the parish were under the obligation in the first instance of seeing that the street was properly paved, and might seek a remedy over against the commissioners. *Rex v. Inhabitants of St. George's, Hanover Square.* 3 *Campb.* 222. 1 *Russ.* 465, 466.

No agreement will exonerate a parish from repairing a highway.

1718. No agreement can exonerate a parish from their liability to repair by the common law. *Rex v. The Mayor of Liverpool,* 3 *East,* 86. *Bacon's Abridgment, Highways, E.* 1 *Russ.* 466.

Highways set out by commissioners under an act for inclosing.

1719. Commissioners under an inclosure act (authorizing them to set out public and private roads, which public roads should be repaired as other public roads, and which private ways should be repaired by *such persons* and in such manner as the commissioners should direct) cannot direct that the private as well as public roads should be repaired as other public roads are by law to be repaired. *Rex v. Cottingham,* 6 *Term Reports,* 20.

Highway lying in two parishes.

1720. A highway lying in two parishes, two justices may determine what parts shall be repaired by each. 34 *Geo.* 3. *c.* 64. *s.* 1.

Each to repair certain parts.

1721. And each parish is afterwards bound to repair the parts so allotted. *Ibid, s.* 2.

Appeal.

1722. Either of the two parishes by an order in vestry specially called for the purpose, may appeal to the *next* quarter sessions of the county where such parishes shall lie after such order is filed as aforesaid, who may make such order as shall appear to them to be just, either by affirming, quashing, or amending the order of the two justices; and shall allow costs to either party as they shall think right; which order of sessions shall not be removed by *certiorari* or otherwise, but shall be final to all intents and purposes whatsoever. *Ibid. s.* 7.

No certiorari allowed.

Of Individuals who are bound to repair in respect of an Inclosure.

Repairing in respect of an inclosure.

1723. A man may be bound to the repair of a highway in respect of an inclosure of the land wherein

it lies; as where the owner of lands not inclosed, next adjoining to the highway, incloses his lands on both sides thereof; in which case, he is bound to make a perfect good way, and shall not be excused for making it as good as it was at the time of the inclosure, if it were then any way defective: because before the inclosure the people used, when the way was bad, to go for their better passage over the fields adjoining out of the common tract, which liberty is taken away by the inclosure. 1 *Haw. c.* 76. *s.* 6.

If the highway is not sufficient.

1724. And if the way is not sufficient, any passenger may break down the inclosure, and go over the land, and justify it, till a sufficient way be made. 3 *Salk.* 182.

If an ancient inclosure.

1725. Also it hath been holden, if one inclose land on one side, which hath been anciently inclosed on the other side, he ought to repair all the way; but if there be not such an antient inclosure of the other side, he ought to repair but half that way. 1 *Haw. c.* 76. *s.* 7.

Where there is an old hedge on one side, and a new one made on the other side.

1726. Therefore if there be an old hedge time out of mind on one side of the way, and a person having land on the other side makes a new hedge, such person shall be charged with the whole repair. 1 *Sed.* 464.

Where the hedges on each side are made by different persons.

1727. But if one person make an hedge on one side of the way, and another person make an hedge on the other side of the way, they shall be chargeable to the repair thereof by moieties. *Ibid.*

Where the highway is laid open after it has been inclosed.

1728. But it is said that wherever one is bound to repair a highway, or part thereof, in respect of an inclosure, and he lays it open again as it was before, he shall be freed from the charge of such repair. 1 *Haw. c.* 76. *s.* 7.

Respecting Individuals who are bound to repair by Prescription.

Repairing by prescription.

1729. A particular person may be bound to repair a highway by prescription; and it is said, that a corporation aggregate may be compelled to do it,

by force of a general prescription that it ought and hath used to do it, without showing that it used to do so in respect of the tenure of certain lands, or for any other consideration; because such a corporation in judgment of law never dies, and therefore if it were ever bound to such a duty, it must needs continue to be always so; neither is it any plea, that such a corporation hath always done it out of charity, for what it hath always done, it shall be presumed to have been always bound to do. But it is said that a person cannot be charged with such a duty, by a general prescription from what his ancestors have done, unless it be for some special reason, as the having land descended from such ancestors, which are holden by such like service. 1 *Haw.* *c.* 76. *s.* 8.

How it applies to individuals only.

1730. This applies to individual persons only, and not to an aggregate body of persons who compose the inhabitants of a district or division in a parish or township. *Rex v. Inhabitants of Ecclesfield,* 1 *B. & A.* 348.

Townships or other divisions within a parish may be liable to repair.

1731. Under the head of prescription may be considered the case where, not the whole parish, but particular townships or other divisions within the parish have for time immemorial repaired particular roads within that parish; which prescription, being ancient, and without interruption, is presumed to have had its origin by license on an inquisition of *ad quod damnum,* or other legal commencement. And it would be very prejudicial in large parishes, if every inhabitant were liable to repair throughout that whole parish, when the time occupied in going and returning might exceed the time appointed by the law for labour.

A private agreement not confirmed by an inquisition ad quod damnum.

1732. But a private agreement among the inhabitants, not being ancient, nor confirmed on an inquisition of *ad quod damnum,* that some of the inhabitants shall repair one part of the highway, and some of them another part, is not good: it may be binding amongst the parties thereunto, so as on a breach thereof one party may have an action upon the case against the other; but with respect to the

public, they continue equally liable as before; for such private agreement cannot alter the law. *Rex v. The Mayor of Liverpool*, 3 *East*, 86.

Where there is an express exemption.

1733. If the inhabitants of a township, who were bound by prescription to repair the roads within the township, be expressly exempted by the provisions of the road act from the charge of repairing new roads to be made within the township, that charge must necessarily fall on the rest of the parish. *Rex v. Inhabitants of Sheffield*, 2 *Term Reports*, 106.

Respecting Repairs by private Persons.

Repairs by private persons how to be enforced.

1734. The surveyor shall from time to time give information upon oath to the justices, or two of them, of all highways, bridges, causeways, or pavements upon such highways as are out of repair, and which ought to be repaired by any person or persons, bodies politic or corporate, by reason of any grant, tenure, limitation, or appointment of any charitable gift, or otherwise howsoever; and the said justices shall limit a time for repairing the same; of which notice shall be given by the surveyor to the occupier or occupiers of the lands or tenements liable to such repairs, or to such other person or persons, bodies politic or corporate, as are chargeable with the same; and if such repairs shall not be effectually made within the time so limited, the said justices shall present such highways, bridges, causeways, or pavements so out of repair, together with the person or persons, bodies politic or corporate liable to repair the same, at the next general quarter sessions for the limit wherein such highway shall lie: and the justices there, if they see cause, may direct the prosecution to be carried on at the general expense of such limit, and to be paid out of the general rates within the same. 13 *Geo.* 3. *c.* 78. *s.* 23.

Persons enfeoffed with lands for the maintenance of causeways, &c. shall let them at the most improved value.

1735. Where any lands have been or shall be given for the maintenance of causeways, pavements, highways, and bridges, the persons enfeoffed or trusted therewith shall let them to farm at the most im-

proved yearly value, without fine. And the justices in their open sessions shall inquire, by such ways and means as they shall think fitting, into the value of such lands, and order the improvement and employment of the rents and profits thereof, according to the direction of the donor, if they find that the persons so intrusted have been negligent or faulty in the performance of their trust. Except such lands as have been given for the uses aforesaid to any college or hall in either of the universities of this kingdom, which have visitors of their own. *Ibid. s.* 51.

Of the Proportion.

Proportion of labour.

1736. The surveyor, together with the inhabitants and occupiers of lands, tenements, woods, tithes, and hereditaments, shall at proper seasons in every year use their endeavours for the repair of the highways, and shall be chargeable thereto as follows: that is to say,

Person keeping a team, draught, or plough, and not occupying above 50*l.* a year in the parish where he resides, shall send for six days one carriage and two men.

1737. Every person keeping a waggon, cart, wain, plough, or tumbrel, and *three* or more horses or beasts of draught used to draw the same, shall be deemed to keep a *team*, *draught*, or *plough*, and be liable to perform statute duty with the same, in the parish, township, or place where he resides, and shall six days in every year, (if so many days shall be found necessary,) to be computed from *Michaelmas* to *Michaelmas*, send on every day and at every place, to be appointed by the surveyor for amending the highways in such parish, township, or place, *one* wain, cart, or carriage, furnished after the custom of the country with oxen, horses, or other cattle, and all other necessaries fit to carry things for that purpose, and also *two able men* with the same; which duty so performed shall excuse every such person from his duty in such parish, township, or place, in respect of all lands, tenements, woods, tithes, or hereditaments, not exceeding the annual value of 50*l.* which he shall occupy therein. 34 *Geo.* 3. *c.* 74. *s.* 4.

If occupying 50*l*. a year, above 50*l*. a year in the same parish;

or 50*l*. a year in another parish.

1738. Every person keeping such team, draught, or plough, and occupying in the *same* parish, township, or place, lands, tenements, woods, tithes, or hereditaments of the yearly value of 50*l*. *over and beyond* the said yearly value of 50*l*. in respect whereof such team duty shall be performed;—and every such person occupying lands, tenements, woods, tithes, or hereditaments, of the yearly value of 50*l*. in any *other* parish, township, or place, besides that wherein he resides;—and every other person, *not* keeping a team, draught, or plough, but occupying lands, tenements, woods, tithes, or hereditaments of the yearly value of 50*l*. in any parish, township, or place;—shall in like manner respectively and for the same number of days find and send one wain, cart, or carriage, furnished with not less than *three horses*, or four oxen and one horse, or two oxen and two horses, and *two able men*, to each wain, cart, or carriage; and in like manner for *every* 50*l*. a year respectively which every such person shall further occupy in any such parish, township, or place respectively; such wains, carts, or carriages to be employed by the surveyor in repairing and amending the highways within the parish, township, or place, where such lands, &c. shall respectively lie. *Ibid. s.* 4.

Persons not keeping a team, draught, or plough; or keeping one, and occupying lands in another township, shall pay a sum in lieu.

1739. Every person who shall *not* keep a team, draught, or plough, but shall occupy lands, tenements, woods, tithes, or hereditaments, *under* the yearly value of 50*l*. in the parish, township, or place where he resides, or in any other parish, township, or place;—and every person *keeping* a team, draught, or plough, and occupying lands, &c. under the yearly value of 50*l*. in any *other* parish, township, or place than that wherein he resides;—shall respectively contribute to the repair of the highways, and pay to the surveyor, in lieu of such duty, the sums following; *viz*. For every 20*s*. of the annual value of such lands, &c. 1*d*. for every day's statute duty, which shall be called for by the surveyor, and in like manner shall pay one penny for every 20*s*. of the annual value of such lands, &c. which he shall occupy in any such parish, township, or place respectively, above the

annual value of 50*l.* and less than 100*l.*; and so for every 20*s.* that each progressive and intermediate annual value of 20*s.* which he shall so occupy shall fall short of the further increase of 50*l.* in every parish, township, or place where such lands, &c. shall respectively lie, for every day's statute duty so to be required as aforesaid. *Ibid.*

Keeping a team, and not occupying 30*l.* a year.

1740. No person keeping such team, draught, or plough, and performing duty with the same as aforesaid in the parish, township, or place where he resides, and not occupying lands, tenements, woods, tithes, or hereditaments within the same of the yearly value of 30*l.*, shall be obliged to send more than *one* labourer with such team, draught, or plough. *Ibid. s.* 4.

Sums to be deemed compositions, and to be recovered by the surveyor.

1741. All which said several sums shall be considered as compositions, and shall be paid to the surveyor at the time the compositions are to be paid under the authority of the aforesaid act, or within ten days after; or in default of such payments the surveyor shall apply to a justice acting for such district, who shall summon such defaulter to appear at some special or petty sessions to be holden for such district, at which two justices at the least shall be present, to show cause why he refused or neglected to pay; and in default of appearance, or if on appearance he shall not make it appear to the satisfaction of such justices that he is poor and indigent, and as such an object deserving relief, such money shall be levied by distress, in like manner as the forfeitures for neglect of statute duty. Provided, that when on application as aforesaid the justices shall discharge any poor and indigent person from payment of such rate or composition money, such person shall at the same time be discharged from any expenses in consequence thereof. *Ibid.*

One person may be discharged from payment.

Justices may discharge poor persons from such rates.

1742. It may frequently happen that persons wholly gaining their livelihood by the wages of daily labour, and occupying rateable tenements, by reason of age, sickness, a numerous family or misfortune, may be in poor and indigent circumstances, and it

may be expedient in certain cases to discharge such persons from all rates, assessments, or composition whatsoever; it is enacted, that on the application of any such person to two justices at any such petty or special sessions, such justices (having first given notice to the surveyor to appear on the part of the parish, township, or place) shall examine into the situation and circumstances of the person making such application, and if it shall appear to the satisfaction of such justices that he is really poor and indigent and deserving such relief, they may exempt him from all such rates, assessments, or composition. *Ibid. s.* 5. (*See pl.* 1754, *p.* 423, *post.*)

Keeping one or two horse carts only.

1743. Every person who shall not keep a team, draught, or plough, but shall keep one or more *cart* or *carts*, and one or two horses or beasts of draught only, used to draw in each of such carts upon the highways, shall be obliged to perform his statute duty for the like number of days with such cart or carts, and horse or horses, or beasts of draught, and *one labourer* to attend each cart; or to pay for the lands, tenements, woods, tithes, and hereditaments which he shall occupy, according to the rate hereinafter mentioned, at the option of the surveyor. *Ibid. s.* 2.

Keeping a coach, &c.

1744. Every person who shall keep a coach, post-chaise, chair, or other wheel carriage, and not keep a team, draught, or plough, nor occupy lands, &c. of 50*l.* a year in the parish, township, or place where he resides, shall pay to the surveyor 1*s.* in respect of every such day's statute duty for every horse which he shall draw in any such carriage, or shall pay according to the value of the lands, &c. which he shall occupy, at the option of the surveyor. *Ibid.*

Team duty may be exchanged for labourers.

1745. If the teams, draughts, or ploughs, or any of them, shall not be thought needful by the surveyor on any of the said days, then every such person who shall have sent any such team, draught, or plough, according to the directions aforesaid, shall, according to the notice given to him by the surveyor,

send unto the said work for every one so spared, three able men; or pay 4*s.* 6*d.* in lieu thereof, at the option of the surveyor.

Where teams are not necessary, surveyor may call for part of a team.

1746. Where the employment for teams is of such sort that two horses will be sufficient for one cart, or where a stand cart with one horse shall be necessary, the surveyor may call upon any person liable to send a team, draught, or plough, according to this act, who keeps one or more cart or carts, and three or more horses, to send such cart or carts, horse or horses, to perform his statute duty, as the surveyor shall find most convenient; and he shall allow every such stand cart and one horse as half a team, and every cart and two horses as two-thirds of a team. And if a waggon shall be found necessary for any particular business; the surveyor may require the duty, or any part thereof, to be performed with such waggon by any person who keeps one. Which directions of the surveyor shall be observed, or the person liable to perform such duty shall forfeit such sum as the duty so required of him shall bear, in proportion to the forfeiture hereby inflicted for every neglect in performing duty with a team, draught, or plough. 13 *Geo.* 3. *c.* 78. *s.* 36.

Militia-men exempted.

1747. No serjeant, corporal, or drummer of the militia, nor any private man, from the time of his inrolment until his discharge, shall be compelled to serve as a peace or parish officer, or to perform any highway duty, commonly called *statute work.* 42 *Geo.* 3. *c.* 90. *s.* 174.

Composition instead of Labour.

Composition in lieu of labour.

1748. In all cases in which it shall be made to appear to *two* or more justices of the peace acting within the district by the surveyors of the highways *or of any turnpike road,* that the maintenance and repair thereof can be more effectually carried on by a composition in money than by the performance of the statute duty in kind, he or they shall be at liberty to require such composition in money upon receiving an authority under the hands and seals of the said justices for that

purpose, *in lieu of either the whole or of any part of the statute duty,* from the several persons who are bound to perform such statute duty, and the justices of the district, at their special sessions for the highways, held in the week next after *Michaelmas* yearly, shall fix such rates as they shall adjudge reasonable as a composition in lieu of the teams, carts, horses, oxen, or labour which such persons are bound in the proportions now fixed by law to provide or perform, which rates the said justices are authorized and required annually to make known at such special sessions, due regard being had to the actual wages of labour, and to the actual rate of hiring teams, draughts, ploughs, carts, horses, or oxen in the parish, place, or district in which such composition is required; and such composition shall be paid in the same manner, and within the same period, and subject to the same regulations and provisions as are now established for enforcing the payment of compositions in lieu of statute duty. 54 *Geo.* 3. *c.* 109. *s.* 4.

Where the whole of the composition money shall be required.

1749. In cases where the whole composition in money shall not be required in lieu of the whole of the duty in kind, such composition shall be demanded in fair and equal proportions from each and every person liable to pay the same, unless any of the said persons shall prefer to pay a composition for the whole of their statute duty according to the rates fixed in the manner above mentioned. *Ibid.*

Composition instead of statute for the repair of a turnpike road running through several townships.

1750. Two magistrates authorized the surveyor of a turnpike road, which ran through twenty-nine *townships,* to collect for the repair of the road a composition in lieu of statute duty. The surveyor was not examined upon oath as to the necessity of the composition. He afterwards made an assessment of 6*d.* in the pound upon the annual value of the lands of a particular township through which the turnpike road passed. The sum to be collected under the assessment was the utmost which the surveyors of the turnpike roads could in any case demand from the inhabitants of the *township,* and much exceeded what was required to put that part of the road lying in the township into complete repair. The turnpike

surveyor having returned the assessment to the surveyor of the highways of the *township*, directed him to collect the sums therein mentioned. Upon a refusal to pay the sum assessed by an inhabitant of the *township*, two magistrates granted a warrant of distress to levy the same: it was held that the warrant was bad, the magistrates having no jurisdiction whatever; upon the ground that in order to legalize the demand under the assessment, it ought to have been previously ascertained how many days' statute duty would be required to put the road into complete repair, the composition being demandable only in respect of that number of days' statute duty. *Sir Thomas Stanley, Bart. v. Fielden, Esq. Congreve, Esq. and Topham, H.* 2 *Geo.* 4. 5 *B. and A.* 425.

What will justify the magistrates.

1751. In order to justify two magistrates in granting an authority to collect a composition in lieu of statute duty, it should be made appear upon oath to both the magistrates present, that the road can be more effectually repaired by such composition.

Where a composition is collected in several townships.

1752. Where the composition is to be collected in several *townships*, it ought to appear on the face of the authority itself, that in the judgment of the magistrates, a composition in lieu of statute duty is advisable in each particular *township*.

All composition to be paid to the surveyor.

1753. All which said several sums shall be considered as compositions, and shall be paid to the surveyor at the time the compositions are to be paid under the authority of the aforesaid act, or within ten days after. 34 *Geo.* 3. *c.* 74. *s.* 4.

Sums to be deemed compositions, and to be recovered by the surveyor.

1754. In default of such payment, the surveyor shall apply to *a justice* acting for such district, who shall summon such defaulter to appear at some *special* or *petty* sessions to be holden for such district at which *two* justices at least shall be present, to show cause why he refused or neglected to pay; and in default of appearance, or if on appearance he shall not make it appear to the satisfaction of the justices that he is poor and indigent, and as such an object deserving relief, such money shall be levied by distress in like manner as the forfeitures for neglect of statute duty. *Ibid.*

And poor persons

1755. Where, on such application, the justices

discharged from the payment of composition are discharged from expences.

shall discharge any poor and indigent person from payment of such rate or composition money, such person shall at the same time *be discharged from any expenses in consequence thereof.* *Ibid.*

Justices may discharge poor person from rates and compositions.

1756. On the application of any poor persons who wholly gain their livelihood by the wages of daily labour, and occupying rateable tenements, by reason of *age, sickness, a numerous family, or misfortune,* may be in poor and indigent circumstances, two justices, at any such *petty or special* sessions, (having first given notice to the surveyor to appear on the part of the parish, &c.), shall examine into the situation and circumstances of the person so applying, and if it shall appear to the satisfaction of the justices that he is really poor and indigent, and deserving such relief, they may exempt him from all such rates, assessments, or compositions. *Ibid. s.* 5. (*See pl.* 1742, *p.* 419, *ante.*)

Justices may direct team duty to be performed in kind.

1757. If it shall appear to the justices at their *special* sessions to be held in the week next after *Michaelmas* quarter sessions, or *at any other special* or *petty* sessions held within the limits of the parish, &c. at which *two* or more justices shall be present, that there will be a difficulty in procuring the necessary carriage, or a sufficient number of labourers for the repair of the highways in any particular parish, &c. within their respective limits, without paying high and extravagant prices, such justices may order and direct the team duty, or so much as they shall think fit, to be performed in kind, except such teams as belong to persons who do not occupy lands, &c. of the annual value of 30*l.* *Ibid. s.* 6.

Exception.

Labourers may be ordered by the justices to do statute duty on payment of the usual wages.

1758. And such justices may order all such persons as gain their living by the wages of daily labour, or such part of them as they shall think fit, to perform six days' labour upon the highways in kind, either by themselves or other sufficient labourers, in case so many days' duty shall be required, upon being paid for such labour the usual and customary wages to labourers in the parish, &c. *Ibid.*

Persons to perform statute duty to be drawn by lot.

1759. If part of such teams or labourers only shall be required, it shall be directed by the said

order of the justices in some given proportion, as *one-half, third,* or *fourth part* thereof; and the surveyor shall, in that case, at a public vestry for the parish, &c. put the names of all the persons liable by this act (13 *Geo.* 3. *c.* 74.) to send such teams, into one *hat* or *box*, and the names of all the persons liable to perform such statute labour into another *hat* or *box*, and some inhabitant then present shall draw out such number from each as shall be equal to the proportion so ordered by the said justices, and the persons drawn shall perform such duty in kind for that year; and if any such order shall be made or continued in the subsequent year the same method shall be observed, but the names drawn in the preceding year shall not be put into such *hat* or *box;* and in every succeeding year such method and regulation shall be observed, by the surveyor, as to render the duty so required to be performed in kind as equal amongst the several persons liable thereto as may be, which order of the justices, so far as the same shall be extended, shall supersede the power or liberty of compounding, and shall be binding and effectual, and shall continue in force until discharged or varied by the justices at some subsequent *special* sessions for the highways to be held in the week next after *Michaelmas quarter sessions. Ibid.*

Rate of composition for persons occupying under 50*l.*; above 50*l.* and under 100*l.*; and so on progressively.

1760. All persons who are liable under any of the provisions of 13 *Geo.* 3. *c.* 78., 34 *Geo.* 3. *c.* 74, and 44 *Geo.* 3. *c.* 52, to contribute to the repair of the highways by a payment of money in lieu of statute duty, shall contribute thereto in lieu of every day's statute duty, for *every twenty shillings* of the actual annual value at the time of making the said assessment of the lands, tenements, woods, tithes, and hereditaments which such persons shall respectively occupy in the parish, &c. where they reside, or in any other parish, &c. a sum equal *to one-fiftieth* part of the sum fixed by the justices, at the time and in the manner by this act directed, as the composition for one day's labour of a cart, wain, or carriage, furnished with three horses and two able men, omitting any fractional part of the said sum which does not

amount to one farthing; and all persons occupying more than fifty pounds *per annum* in the parish, township, or place wherein they reside, or in any other parish, township, or place, and less than one hundred pounds *per annum*, shall contribute to the repairs of the highways in lieu of every day's statute duty, for *every twenty shillings* of the actual annual value at the time of making the said assessment of the lands, tenements, woods, tithes, and hereditaments which such persons shall respectively occupy over and beyond the said sum of fifty pounds *per annum*, and under one hundred pounds, a sum equal to one-fiftieth part of the sum fixed by the said justices, at the time and in the manner by this act directed, as the composition for one day's labour of a cart, wain, or carriage, furnished with three horses and two able men, omitting any fractional part of the said sum which does not amount to one farthing; and so on progressively for every twenty shillings of the actual annual value of the lands, tenements, woods, tithes, and hereditaments which they shall respectively occupy over and beyond every additional fifty pounds *per annum*; and the said sum or sums shall be paid in the same manner and within the same period, and subject to the same regulations and provisions, as are now by law established for enforcing the payment of composition in lieu of statute duty. 54 *Geo.* 3. *c.* 109. *s.* 5.

Persons keeping carriages, though not occupying to the amount of 50*l.*, liable to composition.

1761. Every person who shall keep a coach, post-chaise, chair, or other wheel carriage, and not keep a team, draught, or plough, nor occupy 50*l.* *per annum* in the parish, township, or place where he resides, shall pay to the surveyor or surveyors, in respect of every day's statute duty, for every horse which he or she shall use in drawing such carriage, such a sum as the justices shall, at the time and in the manner by this act directed, fix as the composition for one day's work of a horse; or shall, at the option of the surveyor or surveyors, pay in lieu of every day's statute duty, for every 20*s.* of the actual annual value of the lands, tenements, woods, tithes, and hereditaments, which he or she shall respectively

occupy, a sum equal to one-fiftieth part of the sum fixed by the justices, at the time and in the manner by this act directed, as the composition for one day's labour of a cart, wain, or carriage, furnished with three horses and two able men, omitting any fractional part of the said sum which does not amount to one farthing: and the said sum or sums shall be paid in the same manner, within the same period, and subject to the same regulations and provisions, as are now by law established for enforcing the payment of compositions in lieu of statute duty. 54 *Geo.* 3. *c.* 109. *s.* 6.

Justices may mitigate the composition where a person maintains his team partly from lands in another parish.

1762. If any person who shall keep a team, draught, or plough, and shall not occupy lands, &c. to the value of 30*l. per annum* in the parish, &c. where he resides, but shall in part maintain his horses and beasts of draught used in such team upon or from lands which he shall occupy in one or more adjacent parish or parishes, the justices at *special* sessions may mitigate and reduce the duty or composition required to be performed or paid by such person, in such manner and to such services as they shall think just and reasonable. 13 *Geo.* 3. *c.* 78. *s.* 40.

Surveyors to give notice of the time and place for compositions.

1763. The surveyor shall on some *Sunday* in *November* in every year, cause ten days' notice at least to be given in the church or chapel of the parish, &c., and if there is no church or chapel, or no service performed therein, then at some public place there, and repeat the like notice in such church or chapel or public place on the *next subsequent Sunday*, of the time and place when and where the persons inclined to compound for the said duty, may signify to the surveyor their intention to compound, and all persons signifying the same, who shall then or within the space of *one calendar month* after, pay the composition, shall be discharged from the performance of statute duty. No composition shall be permitted, unless the same shall be paid at the day or within the time aforesaid. 13 *Geo.* 3. *c.* 78. *s.* 41.

Persons changing their occupations.

1764. But where the occupation shall be changed, or a new occupant or inhabitant shall come to reside after the time appointed for the composition, such occupant or person coming to reside may be allowed to compound as aforesaid, provided they pay the composition money *within fourteen days* after they shall enter upon the premises. And every tenant or occupier, who intends to quit the possession *within six calendar months* from the time fixed for the composition *may compound for half the duty*, and the succeeding tenant or occupier may compound or perform the duty in kind for the other half. *Ibid. s.* 41.

Surveyor receiving more composition than required, to return it.

1765. If the surveyor shall receive from any person a composition for more duty than shall be required from the other inhabitants and occupiers within the parish, &c. for the same year, he shall repay such *extraordinary* composition money to such person, so as to bring the duty to an equality amongst all the inhabitants and occupiers. *Ibid.*

Keeping a draught or plough and no carriage.

1766. Where a person shall keep a draught or plough, and no carriage, he shall pay to the surveyor 1*s.* for every horse or pair of oxen or neat cattle used in such draught or plough for each day's duty, or pay according to the rate aforesaid for the yearly value of the estate which he occupies as aforesaid, at the option of the surveyor. *Ibid. s.* 42.

Where there are turnpike roads, a proportion of the composition to be paid to the turnpike surveyor.

1767. And whereas, by several acts of parliament concerning turnpike roads, a certain part of the duty called statute duty is directed to be performed on such roads, and it may happen in such places, that the several persons liable thereto may have compounded for the same, in such case the surveyor of the parish, township, or place where such composition shall have been made, shall pay to the turnpike treasurer or surveyor a proportionable part of the composition money so received, according to the number of days' duty which such persons were liable to perform on such turnpike road; which money shall be laid out on such part of the said turnpike

road as lies within the parish, township, or place from which it was received, and not elsewhere. And if such surveyor of the highways shall refuse or neglect to pay to the turnpike treasurer or surveyor such part of the said composition money so received by him, within 20 days after he shall have received the same, on demand thereof made by such treasurer or surveyor, it shall be levied on his goods and chattels, in like manner as penalties and forfeitures are to be levied by this act. 13 *Geo.* 3. *c.* 78. *s.* 44.

Working.

The justices may order what roads shall be repaired first.

1768. The justices at any *special* sessions held under this act may, by writing under their hands and seals, order those highways (not being turnpike) which in their opinion do most want repair to be first mended, and at what time and in what manner; according to which order (if such there be) the surveyors shall proceed within their respective liberties. If the justices make no such order, then the surveyors shall have the like power of direction. 13 *Geo.* 3. *c.* 78. *s.* 25.

Inhabitants may fix three months within the year in which no statute-duty shall be performed.

1769. In order to prevent as much as possible any inconvenience to persons liable to perform statute-duty, the inhabitants of every parish, &c., at a vestry or other public meeting under this act, to appoint *three months in every year* within which no statute duty shall be performed; *viz.* one month in the spring to be called the *seed month;* one month in the summer for the *hay harvest;* and one month in the summer for the *corn harvest:* Provided, that notice in writing be given of the times so appointed to the surveyor of such parish, &c., and also the surveyor of every turnpike road lying within the same, *within three days* after such meeting, and *fourteen days* at least before the beginning of each of such months. *Ibid. s.* 43.

What notice to be given for performing statute-duty.

1770. Every surveyor shall give, or cause to be left at the house, or usual place of abode, of every

person liable to perform such duty or labour, *four days'* notice at least, *of the day, hour, and place* upon which each of the said days' duty shall be required to be performed. *Ibid. s.* 37.

Forfeitures for neglect in sending carts, &c.

1771. Every person making default in finding or sending such *wain, cart, or carriage,* furnished as aforesaid; and such able men with the same as aforesaid, or in performing the said duty at the time and place, and in manner aforesaid, shall for every such default or neglect, in sending such wain, cart, or carriage, with such men as aforesaid, forfeit 10*s.*, and for every default, in sending every cart with one horse and one man, 3*s.*, and for not sending every cart, with two horses and one man, 5*s.*, and for every person making default in performing such labour, at the time and place, and in manner aforesaid, or in paying such composition money, shall for every such neglect forfeit 1*s.* 6*d.*; all which said forfeitures shall be applied to the use of the highways within the parish, &c. where they shall arise. *Ibid. s.* 37.

Surveyor to call forth the duty equally.

1772. The surveyor shall fairly and equally demand and require the duty and labour, without favour or partiality. *Ibid.*

Where the whole duty is not necessary.

1773. If it shall not be necessary to call forth the whole duty in one year, it shall be abated in a just and equal proportion amongst all persons liable to the same; and the surveyor is required with all speed, after default made in performance of statute duty or labour, to proceed for the recovery of the penalties or forfeitures, so that the same may be recovered, before he makes up his accounts. *Ibid.*

Tools to be brought.

1774. All such persons shall bring with them shovels, spades, picks, and mattocks, and other tools and instruments proper for the purposes aforesaid. 34 *Geo.* 3. *c.* 74. *s.* 2.

Manner of working.

1775. And all the said persons and carriages shall diligently perform the work and labour to which they shall be appointed by the surveyor *for eight hours in every of the said days* within such parish, &c., or in getting and carrying materials in and from any other parish, &c. to be employed in the

repair of the highways of the parish, &c. for which they shall be required to perform such duty and labour as aforesaid. *Ibid.*

Penalty of not working according to the direction of the surveyor.

1776. If any person sending a team as aforesaid, shall not send a sufficient labourer besides the driver (except as before mentioned), or if any such labourer or driver, or the driver of any cart, shall refuse to work and labour, according to the direction of the surveyor, or if any driver shall refuse *to carry proper and sufficient loads*, the surveyor may discharge every such team, cart, or labourer, and recover from the owner of every such team or cart the forfeiture which every such person would have incurred, in case no such team, cart, or labourer respectively, had been sent. *Ibid.*

Enforcing performance of statute-duty, and for levying forfeitures and arrears.

1777. All persons who shall refuse or neglect to perform any part of their statute-duty in kind, on being regularly summoned by the surveyor for that purpose, shall forfeit and pay a sum equal to twice the amount of the composition for such statute-duty as they shall have so neglected or refused to perform, according to the rates fixed by the justices under the provisions of this act; and the said persons shall also be liable to perform the said statute-duty which they have so neglected or refused to perform, either in the same or in the following year; the payment of such forfeitures, and the arrears of such statute-duty to be enforced and applied to the benefit of the highway or turnpike road, as the case may be, to which the original neglected duty was due or owing, by the surveyor or surveyors for the time being, and under the same regulations and in the same manner as other forfeitures may be levied, and statute-duty may in other cases be enforced, by any of the provisions of any of the said hereinbefore recited acts. 54 *Geo.* 3. *c.* 109. *s.* 7.

Justices of cities to execute act.

1778. The justices of the peace and magistrates of all cities, corporations, boroughs, precincts, liberties, and other separate jurisdictions, are hereby authorized and required to put in execution every part of this act within their respective jurisdictions, so

far as the provisions thereof are applicable, in as full and ample a manner as the justices of any county or of any division thereof. *Ibid.*

Not to alter former acts but where expressly amended.

1779. Nothing in this act contained shall alter the several hereinbefore recited acts, nor any act or acts passed subsequently to the said hereinbefore recited acts, regarding the highways or turnpike roads in *England* and *Wales;* but that the same, where not expressly amended or altered by this act shall remain in as full force as at the time of passing this act; and that all their powers, authorities, provisions, regulations, and forms, shall be applicable, not only to the carrying those acts respectively into execution, but also this act, so far as the same are adapted thereto, and are not expressly varied or altered by this act, in as full and ample a manner as if the same had been re-enacted in this act. *Ibid. s.* 9.

How to procure Materials.

Getting materials.

1780. The surveyor may take and carry away so much of the rubbish or refuse stones of any *quarry* within his district (except such as shall have been got by the surveyor of any turnpike road) without the license of the owner of such quarry, as he shall judge necessary for the amendment of the said highways; but shall not dig or get stone in such quarry without leave of the owner. 13 *Geo.* 3. *c.* 78. *s.* 27.

1781. The surveyor, for the use aforesaid, in any *waste* land or *common* ground, *river*, or *brook*, within his district, or within any other parish, township, or place wherein gravel, sand, chalk, stone, or other materials are likely to be found (in case sufficient cannot be conveniently had within the parish, &c. where they are to be employed, and in case sufficient shall be left for the use of the roads in such other parish, &c.) may search for, dig, get, and carry away the same: so as he do not thereby divert or interrupt the course of such river or brook, or prejudice or

damage any building, highway, or ford, nor dig or get the same out of any river or brook within the distance of 100 feet above or below any bridge, nor within the like distance of any dam or wear. And likewise, to gather stones lying upon any lands or grounds within the parish, &c. where such highway shall be, for such service and purpose. *Ibid.*

1782. And to take and carry away so much of the said materials, as by him shall be thought necessary for the amendment of the said highways, without making any satisfaction for the said materials: but satisfaction shall be made for all damages done to the lands or grounds of any person, by carrying away the same, in the manner hereinafter directed, for getting and carrying materials in enclosed lands or grounds. *Ibid.*

without making satisfaction, except for damages done in carrying them away.

1783. But no such stones shall be gathered without the consent of the occupier of the lands, or a licence from a justice, after having summoned the occupier and heard his reasons (if he shall appear and give any) for refusing his consent. *Ibid.*

Not to be gathered without consent of the owner.

1784. Provided, that nothing herein contained relative to the gathering or getting of stones shall extend to any quantity of land (being private property) covered with stones thrown up by the sea, commonly called *beach*. *Ibid. s.* 28.

Not to extend to stones thrown up by the sea.

1785. The surveyor, for the use aforesaid, may search for, dig, and get sand, gravel, chalk, stone, or other materials, if sufficient cannot conveniently be had within such waste lands, common grounds, rivers, or brooks, in and through any of the several or *enclosed* lands or grounds of any person whomsoever, within the parish, township, or place where the same shall be wanted, or by licence from two justices at a special sessions, within any other parish, &c. adjoining or lying near to the highway for which such materials shall be required, if it shall appear to such justices that sufficient materials cannot be conveniently had in the parish, &c. where such highways lie, or in the waste lands or common grounds, rivers, or brooks of such adjacent parish, &c. and that a sufficient quantity of materials will be

If sufficient materials cannot be found on waste lands, &c., the surveyor may take them from enclosed lands.

left for the use of the parish, &c. where the same shall be (such lands or grounds not being a garden, yard, avenue to a house, lawn, park, paddock, or enclosed plantation); and to take and carry away so much of the same materials as the surveyor shall think fit; the surveyor making such satisfaction for the damage to be done to such lands by the getting and carrying away the same, as shall be agreed upon between him and the owner, occupier, or other person interested, in the presence and with the approbation of two or more substantial inhabitants; and if they cannot agree, then to be settled by the order of one justice of the limit where the lands lie. *Ibid. s.* 29.

Maliciously trespassing.

1786. Where lands are maliciously or wantonly trespassed upon by the surveyors, and not for the purposes of the act, an action of trespass may be maintained; and the plaintiff may recover damages by the verdict of a jury; but the satisfaction to be made in any case within the act can only be ascertained in the manner prescribed by sect. 29. The parties have no choice of any other tribunal. *Boyfield v. Porter*, 13 *East*, 200.

Clay may be got and burnt into materials for repairing the highways.

1787. In such places where, from the want of other materials, burnt *clay* may be substituted in the place thereof, the surveyor may dig clay in such places as he is authorised to dig chalk or gravel, and to dry the same upon the lands adjoining, and to burn the same upon any waste lands or common grounds, and to carry such clay in such manner as other materials are allowed to be carried by this act, upon making such satisfaction for the damages within the several enclosed lands where such clay shall be placed or carried, as herein directed with regard to other materials. 13 *Geo.* 3. *c.* 78. *s.* 29.

If the owner of enclosed lands shall require such materials for his own use.

1788. When the owner of such enclosed lands shall have occasion for any such materials for the repair of any highway or other roads or ways upon his estate, or which he shall be under obligation to repair, and shall give notice to the surveyor that he apprehends there will not be sufficient for those purposes, and also for the use of the public highways, in

such case the surveyor shall not be permitted to dig, or take such materials without the consent of such owner, or an order of two justices, after having summoned and heard the said owner or occupier, or his steward or agent; which justices shall permit or restrain such power in such manner, and under such directions, as to them shall seem just. *Ibid. s.* 29.

Stone, &c. not to be dug for any other parish than that where found.

1789. No stone, gravel, or materials, to be dug for the use of any other parish, township, or place, than that wherein the same are found, shall be removed or carried from the place where they shall be so dug, at any other time than between the first of *April* and the first of *November*, or in the time of hard frost in the winter season. *Ibid. s.* 32.

Damaging any bridge, &c. by digging materials.

1790. If any person shall dig, or cause to be dug, materials contrary to the directions of this act, whereby any bridge, mill, building, dam, highway, ford, mines, or tin works, may be damaged or endangered, he shall forfeit not exceeding 5*l.*, nor less than 20*s.*, at the discretion of the court or justices before whom complaint shall be made. *Ibid. s.* 33.

Surveyor may contract for materials.

1791. And where a sufficient quantity of stone, gravel, chalk, or other materials cannot be provided and carried by the labourers and teams within any parish, township, or place, the surveyor shall contract for the getting and carrying thereof (in presence of the assistant, if any such be appointed), at a meeting to be held for that purpose; of which *ten days'* notice in writing shall be given, by fixing the same upon the door of the church or chapel, or if there be no church or chapel, at the most public place there; which notice shall specify the work to be done, and the time and place for letting thereof.

Penalty on surveyor having share in any contract.

And if the surveyor shall have any share or interest in such contract, or in any other contract for work or materials, or shall upon his own account let to hire any team, or sell or dispose of any timber, stone, or other materials (unless a licence in writing for the sale of such materials, or for letting to hire such team, be first obtained from a justice), he shall

not to be allowed within fifteen feet from the centre of a highway.

to stand or grow in any highway within the distance of fifteen feet from the centre thereof (*except for ornament or shelter to the house, building, or courtyard of the owner thereof,*) or hereafter be planted within the distance aforesaid; but the same shall be cut down, grubbed up, and carried away, by the owner or occupier of the land or soil, within ten days after notice to him or his agent by the surveyor; on pain of forfeiting 10*s.* for every neglect. 13 *Geo.* 3. *c.* 78. *s.* 6.

Hedges, &c. to be cut and pruned.

1803. Possessors of the land next adjoining shall cut, prune, or plash their hedges; and also cut down or prune and lop the trees growing in or near such hedges or other fences (*except trees planted for ornament or shelter as aforesaid*), in such manner that the highway shall not be prejudiced by the shade thereof, and that the sun and wind may not be excluded from such highway. And if such possessor shall not, within *ten days after notice* given by the surveyor, cut, prune, and plash such hedges, and cut down, or prune and lop such trees, the surveyor may complain to a justice, who shall summon the possessor of the said lands to appear before the justices at some *special* sessions to answer to the said complaint; and if it shall appear to the justices at such *special* sessions that such possessor hath not complied with the requisites of this act, the said justices, upon hearing the surveyor and possessor of such land or his agent (or, in default of appearance, on having due proof of the service of such summons), may order such hedges to be cut, plashed, and pruned, and such trees to be cut down or pruned, in such manner as may best answer the purposes aforesaid. And if the possessor of such land shall not obey such order *within ten days* after it shall have been made, and he shall have had notice thereof, he shall forfeit 2*s. for every twenty-four feet in length of such hedge* which shall be neglected to be cut and plashed, and 2*s. for every tree* which shall be neglected to be cut down or pruned and lopped; and the surveyor shall cause the same to be done; and the possessor shall pay, over and above the

penalties, the charges and expenses of doing the same; to be levied by distress by warrant of *one* justice. *Ibid. s.* 7.

1804. Provided, that no person shall be compelled, or any surveyor permitted, to cut or prune any hedge at any other time than between the last day of *Sept.* and the last day of *March*; and that no person shall be obliged to fell any timber trees growing in hedges at any time whatsoever, except where the highways shall be ordered to be enlarged as hereinafter mentioned, or to cut down or grub up any oak trees growing in such highway or in such hedges, except in the months of *April*, *May*, or *June*, or any ash, elm, or other trees, in any other months than *December*, *January*, *February*, or *March*. *Ibid. s.* 13.

Hedges not to be cut, &c. except before the last day of September and last day of March.

1805. Ditches, drains, or watercourses, of a sufficient depth and breadth for keeping the highways dry, and conveying the water from the same, shall be made, scoured, cleansed, and kept open, and sufficient trunks, tunnels, plats, or bridges shall be made and laid, where any cart-ways, horse-ways, or foot-ways lead out of the said highways into the lands adjoining thereto, by the occupier of such lands; and every person who shall occupy any lands adjoining to or near the highway, through which the water hath used to pass from the said highway, shall open, cleanse, and scour the ditches, watercourses, or drains for such water to pass without obstruction: and every person making default in any of the matters aforesaid, *after ten days'* notice given by the surveyor, shall forfeit 10*s*. *Ibid. s.* 8.

Ditches, drains, and watercourses.

1806. Where the ditches, gutters, or watercourses, which have been usually made, or which are herein directed to be made, cleansed, and kept open, shall not be sufficient to carry off the water which shall lie upon and annoy the highways; in such case it shall be lawful for the surveyor, by order of one justice, to make new ditches and drains in and through the lands adjoining or lying near to such highways, or in and through any other lands, if it shall be necessary, for the more easy and effectual carrying off

Where old ditches, &c. are insufficient, new ones are to be made.

such water from the said highways, and also to keep such ditches, gutters, or watercourses scoured, cleansed, and opened; and the surveyors and their workmen may go upon the said lands for that purpose; provided, that the said surveyors make proper trunks, tunnels, plats, bridges, or arches, over such ditches, gutters, or watercourses, where the same shall be necessary, for the convenient use and enjoyment of the lands through which the same shall be made, and from time to time keep the same in repair; and do also make satisfaction to the owner or occupier of such lands, which are not waste or common, for the damages which he shall sustain thereby, to be settled and paid in such manner as the damages for getting materials in several or enclosed grounds are directed to be settled and paid. *Ibid. s.* 14.

Straw, dung, or other matter laid on the highway.

1807. If any person shall lay in any highway, any stone, timber, straw, dung, or other matter; or in making, scouring, or cleansing the ditches or watercourses, shall permit the soil or earth dug out thereof to remain in the highway, so as to obstruct or prejudice the same, for five days after notice by the surveyor; he shall forfeit 10*s.* *Ibid. s.* 9.

Stone, timber, hay, straw, &c. laid within fifteen feet of the centre of the highway, and not removed after notice.

1808. And if any stone or timber, or any hay, straw, stubble, or other matter, for the making of manure, or on any other pretence, not tolerated by this act, shall be laid in any highway *within fifteen feet* from the centre thereof, and shall not *within five days* after notice given by the surveyor, or some person aggrieved thereby, be removed, the owner or possessor of the lands adjacent, or any other person by order from a justice, may clear the said highway, by removing the stone, timber, hay, straw, dung, or other matter, and have, take, and dispose of the same to his own use. *Ibid. s.* 10.

Penalty for encroaching on the highway.

1809. If any person shall encroach by making or causing to be made any hedge, ditch, or other fence on any highway not being turnpike road, *within the distance of fifteen feet* from the middle or centre thereof; or shall plough, harrow, or break up the soil of any land or ground, or in ploughing or har-

rowing the adjacent lands shall turn his plough in or upon any land or ground, *within the distance of fifteen feet* from the middle or centre of any highway, where the breadth of such highway is formed and marked or described with certainty, and doth not exceed in breadth *thirty feet*, he shall forfeit 40*s.* for every such offence to him who shall make information thereof, and the surveyor may cause such hedge, ditch, or fence to be taken down or filled up, at the expense of the person to whom the same shall belong; and one justice on proof to him made upon oath, may levy as well the expenses of taking down such hedges, as the said penalty, by distress. *Ibid. s.* 115.

Encroachment may be taken down by the surveyor.

1810. The surveyors shall, at all such times as they shall judge proper, view all the common highways, trunks, tunnels, plats, hedges, ditches, banks, bridges, causeways, and pavements; and if they shall observe any nuisances, encroachments, obstructions, or annoyances, contrary to this act, they shall give to any person doing or permitting the same, personal notice, or notice in writing to be left at his usual place of abode, specifying the particulars; and if such nuisances, obstructions, or annoyances shall not be removed, and the ditches, drains, gutters, and watercourses aforesaid effectually made, scoured, cleansed, and opened, and such trunks, tunnels, plats, and bridges made and laid, and such hedges properly cut and pruned, *within twenty days* after such notice, then the surveyor shall do the same, and the person neglecting shall forfeit for every foot in length so neglected, one penny, and over and above the said forfeiture, the surveyor shall by such person be reimbursed his charges and expenses in doing the same; and if not paid on demand, the surveyor shall apply to a justice, and on making oath before him of the notice being given as aforesaid, and of the work being done, and of the expenses attending the same, the surveyor shall be repaid by such person all such charges as shall be allowed to be reasonable by the said justice; and if not paid on demand, the same shall be levied as

Surveyor to give notice and cause defects to be amended.

Offenders not removing nuisances, &c. after notice, the surveyor shall do it, and charge the offender with the charge thereof.

other penalties and forfeitures by this act. *Ibid. s.* 12.

Carriages or implements of husbandry left in the highway.

1811. If any person shall wilfully set, place, or leave any waggon, cart, or other carriage, or any plough or instrument of husbandry in any highway, (except only with respect to such waggon, cart, or carriage, during such reasonable time as the same shall be loading or unloading, and standing as near the side of such highway as conveniently may be,) so as to interrupt or hinder the free passage of any other carriage, or of his majesty's subjects; he shall forfeit 10*s.* *Ibid. s.* 11.

Drivers of carriages misbehaving.

1812. If any person, driving any cart, dray, or waggon in the streets of *London*, shall ride upon the same, not having some other person on foot to guide the same, he shall on conviction before the alderman of the ward, or a justice of the peace, on oath of one witness, forfeit 10*s.* by distress and sale; half to the informer, and half to the poor; and in default of payment, to be sent to the house of correction, there to be kept to hard labour for three days. 1 *Geo.* 1. *st.* 2. *c.* 57. *s.* 8.

Carter, drayman, &c. riding on his cart or dray, &c. in London, or within ten miles thereof.

1813. If any carter, drayman, carman, waggoner, or other driver, shall ride upon the same in *London, or within ten miles thereof*, not having some other person on foot to guide the same, he shall, on the like conviction, forfeit 10*s.* in case such driver shall not be the owner of such carriage; and in case he be the owner, then any sum not exceeding 20*s.* To be recovered, levied, and applied, as by the said act of the 1 *G.* 1. *st.* 2. *c.* 57. And any person, *though not a peace officer*, may stop and apprehend such offender, and carry him as soon as conveniently may be before a justice; and if any person shall resist, abuse, or prevent any person endeavouring to apprehend such offender, or when he is apprehended, shall rescue, or endeavour to rescue him, he shall forfeit 20*s.* in like manner. 24 *Geo.* 2. *c.* 43. *s.* 8, 9.

Driving of carriages within London or Westminster, or within the bills of mortality.

1814. If the driver of any carriage within *London* or *Westminster*, or in any public street or common highway within *the bills of mortality*, shall by negli-

gence or wilful misbehaviour interrupt the free passage of his majesty's subjects, he shall on conviction by confession or oath of one witness, before one justice, forfeit any sum *not exceeding* 20*s.* or be committed to the house of correction, or some other prison of the place where the offence shall have been committed, or the offender shall have been apprehended, there to be kept to hard labour for any time not exceeding one calendar month. The said forfeiture to be levied by distress by warrant of such justice; and to be paid *half to the prosecutor, and half to the overseers for the use of the poor* of the parish or place where the offence shall be committed, or the offender shall be apprehended; and if there be no overseer, then to some other officer for the use of the poor as aforesaid. 30 *Geo.* 2. *c.* 22. *s.* 7. 12.

Any person seeing an offence committed, may apprehend the offender without warrant.

1815. Any person, who shall see any offence committed against this act, may by authority of this act, and without any other warrant, apprehend the offender, and shall with all convenient speed convey or deliver him to a constable or other peace officer of the place where the offence shall be committed, or the offender shall be apprehended, in order to be conveyed before a justice, there to be dealt with according to law. *Ibid. s.* 13.

Offender refusing to discover his name and place of abode.

1816. And if he shall refuse to discover his name and place of abode to the justice before whom he shall be brought, he shall be immediately delivered over to a constable or other peace officer, and shall by him be conveyed to the common gaol or house of correction of the place where the offence shall be committed; there to remain until he shall declare his name and place of abode to the said justice, or to some other justice of such place. *Ibid. s.* 11.

Inhabitants may be witnesses.

1817. Any person shall be admitted to be an evidence, notwithstanding his being an inhabitant of the place where the offence shall be committed. *Ibid. s.* 14.

1818. Persons punished by this act shall not be punished by any former law. *Ibid. s.* 15.

Drivers of carriages punishable for misbehaviour or negligence, in order to prevent accidents.

1819. If the driver of any *car, cart, dray,* or *waggon,* shall ride upon any such carriage in any street

or highway, not having some other person on foot or on horseback to guide the same (*such carriages as are conducted by some person holding the reins of the horse or horses drawing the same, excepted*); or if the driver of *any carriage whatsoever*, on any part of any street or highway, shall by negligence or wilful misbehaviour cause any hurt or damage to *any* person or *carriage passing* or *being upon such street or highway*; or shall quit the highway, and go on the other side of the hedge or fence enclosing the same; or wilfully be at such distance from such carriage, whilst it shall be passing upon the highway, that he cannot have the direction and government of the horses or cattle drawing the same; or shall, by negligence or wilful misbehaviour, *prevent, hinder, or interrupt the free passage of any other carriage*, or of his majesty's subjects on the said highways; or if the driver of any empty or unloaded waggon, cart, or other carriage, shall refuse or neglect to turn aside and make way for any coach, chariot, chaise, loaded waggon, cart, or other loaded carriage; or if any person shall drive, or act as the driver of any such coach, post-chaise, or other carriage let for hire, or waggon, wain, or cart, not having the owner's name (as by this act is directed) painted thereon, or shall refuse to discover the true christian and surname of the owner of such respective carriage; he shall, on conviction by confession, view of the justice, or oath of one witness before one justice, forfeit any sum not exceeding 10*s.* in case such driver be not the owner of such carriage, and if he be the owner, then any sum not exceeding 20*s.*; and in default of payment be committed to the house of correction for any time not exceeding one month, unless the same be sooner paid. And every such driver offending in either of the said cases may by authority of this act, with or without any warrant, be apprehended by any person who shall see such offence committed, and shall be immediately conveyed or delivered to a constable or other peace officer, to be conveyed before a justice, to be dealt with according to law. And if any driver,

Driver of empty carts, waggons, &c. refusing to turn aside for a coach, &c.

in any of the cases aforesaid, shall refuse to discover his name, the justice may commit him to the house of correction for any time not exceeding three months, or may proceed against him for the penalty by a description of his person and the offence, and expressing in the proceedings that he refused to discover his name. 13 *Geo.* 3. *c.* 78. *s.* 60.

The owner's name and place of abode to be put on carriages.

1820. And for the better discovering of offenders, the owner of every waggon, wain, or cart, and also of every coach, post-chaise, or other carriage let to hire, shall cause to be painted, upon some conspicuous part of his waggon, wain, or cart, and upon the pannels of the doors of all such coaches, post-chaises, or other carriages, before the same shall be used in any public highway, his christian and surname and place of abode, in large legible letters; and continue the same thereupon so long as such carriage shall be used upon any highway: and the owner of every common stage, waggon, or cart employed in travelling stages from town to town, shall, over and above his christian and surname, cause to be painted on the part and in the manner aforesaid, the following words, *common stage, waggon, or cart*, as the case may be. And every person using any such carriage as aforesaid upon any highway, without the said names and descriptions respectively, or who shall cause to be painted thereon any fictitious name or place of abode, shall forfeit not exceeding 5*l.* nor less than 20*s.* *Ibid. s.* 59.

Alehouses not to be near bridges.

1821. And for preventing obstructions near public bridges, if any person, collecting any tolls payable for passing over any public bridge with carriages or cattle of any kind, shall keep any victualling-house, alehouse, or other place of public entertainment, or shall sell or permit to be sold therein any wine, beer, ale, cider, spirituous liquors, or other strong liquors, by retail, he shall, on conviction before one justice by confession or oath of one witness, forfeit 5*l.* *Ibid. s.* 62.

Direction Posts, Blocks, Milestones, Water Marks, and Battlements of Bridges.

Direction posts.

1822. The justices, at a *special* sessions held for the purposes of this act, shall issue their precept to the surveyor for any parish, &c. where several highways meet, and there is no proper or sufficient direction post or stone already fixed or erected, requiring him forthwith to cause to be erected or fixed in the most convenient place where such ways meet, a stone or post, with inscriptions thereon, in large legible letters painted on each side thereof, containing the name or names of the next market town or towns, or other considerable place or places to which the said highways lead; and also at the several approaches or entrances to such parts of any highways as are subject to deep or dangerous floods, graduated stones or posts, denoting the depth of water in the deepest part of the same; and likewise such direction posts or stones as the said justices shall judge to be necessary for the guiding of travellers in the best and safest tract through the said floods or waters; and if he shall refuse or neglect, by the space of three months, to cause such stones or posts to be fixed, he shall forfeit 20*s*. 13 *Geo*. 3. *c*. 78. *s*. 26.

Horse and foot causeways.

1823. And whereas in some places it may be necessary to secure horse and foot causeways by posts, blocks, or great stones fixed in the ground, or by banks of earth cast up or otherwise, from being broken up and spoiled with waggons, wains, carts, or carriages; and forasmuch as divers evil-disposed persons do wilfully or wantonly pull up, cut down, and remove or damage the said posts, blocks, and great stones, and drive carriages upon such banks and causeways, or against the sides thereof, and also dig or cast down the said banks, whereby the causeways or banks are often ruined and destroyed; and such evil-disposed persons do or may break, damage, or throw down the stones, bricks, or wood fixed

upon the parapets or battlements of bridges; and pull down, destroy, obliterate or deface any mile-stone, or post graduated, or direction post, or stone erected upon any highway; for prevention thereof it is enacted, that every person who shall be guilty of any such offence shall, upon conviction before one justice, by the oath of one witness, or upon view of the justice, forfeit not exceeding 5*l.* nor less than 10*s.*; and in default of payment shall be committed to the house of correction, there to be whipped and kept to hard labour for any time not exceeding one calendar month, nor less than seven days, at the discretion of the justice. *Ibid. s.* 52. Destroying parapets, battlements of bridges, or milestones.

Breadth of Wheels, and Number of Horses.

1824. No waggon having the sole or bottom of the fellies of the wheels of the breadth of *nine* inches, shall be drawn with more than *eight* horses; and no cart, having the sole or bottom of the fellies of the wheels of the breadth of *nine* inches, shall be drawn with more than *five* horses. 13 *Geo.* 3. *c.* 78. *s.* 55. Breadth of wheels and number of horses.

1825. And no waggon, having the sole or bottom of the fellies of the wheels of the breadth of *six* inches, and rolling on each side a surface of *nine* inches, shall be drawn with more than *seven* horses. *Ibid.* Waggon drawn by seven horses.

1826. And no waggon, rolling a surface of six inches only, shall be drawn with more than *six* horses; and no cart, having the sole or bottom of the fellies of the wheels of the breadth of *six* inches, shall be drawn with more than *four* horses. *Ibid.* The like by four horses.

1827. And no waggon, having the sole or bottom of the fellies of the wheels of less breadth than *six* inches, shall be drawn with more than *five* horses; and no cart having the sole or bottom of the fellies of less breadth than *six* inches, shall be drawn with more than *three* horses. *Ibid.* The like by three horses.

Penalty.

1828. On pain that the owner shall forfeit 5*l.*, and the driver (not being the owner) 10*s.*, for every horse or beast above the number respectively, to the sole use of the informer. *Ibid.*

Carriages on wheels of sixteen inches breadth.

1829. But carriages moving upon wheels or rollers of the breadth of *sixteen* inches on each side thereof, with flat surfaces, shall be allowed to be drawn with any number of horses or other cattle. *Ibid.*

Prosecutions to be commenced within three days.

1830. No prosecution shall be commenced before a justice against such owner or driver, unless the information be laid *within three days;* and no action shall be commenced unless *within one calendar month* after the offence committed; and neither information nor action shall be brought, unless notice be given by the informer to the driver on the day whereon the offence shall be committed, of an intention to complain of such offence: And if it shall appear to the justice before whom the complaint shall be made, that the offender lives so remote as to make it inconvenient to summon him to appear before such justice, the said justice may dismiss the complaint, and leave the informer to his remedy by action at law. *Ibid. s.* 56.

Justices may license an increase of the number of horses.

1831. The justices at the *Michaelmas* quarter sessions may license, in such manner and for such time as they shall think fit, an increase in the number of horses to be drawn in carriages up any steep hill, or on any road not turnpike, over and above the number hereinbefore limited; and from time to time, at any *Michaelmas* quarter sessions, may revoke, alter, or vary the same as they shall think fit. *Ibid. s.* 57.

Exception as to snow and ice;

1832. And if it shall appear upon the oaths of credible witnesses, to the satisfaction of any justice of the peace, or of any court of justice authorised to enforce the execution of this act, that any waggon, cart, or carriage, could not, by reason of deep snow or ice, be drawn by the number of horses or beasts of draught hereby allowed, they may stop the proceedings before them for recovery of the forfeiture. *Ibid. s.* 58.

1833. Provided also, that nothing herein, concerning the number of horses and wheels of carriages, shall extend to carts, waggons, or other carriages employed only in carrying any one stone, block of marble, cable, rope, or piece of metal, or piece of timber, or to such ammunition or artillery as shall be for his majesty's service. *Ibid.* and large stones, &c.

1834. And for all the purposes of this act, two oxen or horned cattle shall be considered as one horse. *Ibid.* Two oxen, &c. as one horse.

1835. No person in *London* and *Westminster, or within ten miles thereof*, shall carry at any *one* load, in waggons or carts having their wheels shod with iron, more than *twelve* sacks of meal of *five* bushels each, nor more than *twelve quarters* of malt, nor more than 700½ *of bricks*, nor more than *one chaldron* of coals *; on pain of forfeiting any one of the horses, with the geers, bridles, and halters therewith used, in such manner, and to such uses, as by the 5 *Geo.* 1. *c.* 12 (now repealed). 6 *Geo.* 1. *c.* 6. Regulations in London and Westminster, or within ten miles thereof.

1836. The wheels of every cart, car, or dray, within the bills of mortality, shall be *six* inches broad in the felly, and not wrought about with iron, nor be drawn with above the number of *three* horses, after they are up the hills from the water-side; on pain of 40*s.*, by warrant of one justice, by distress; and for want of distress, on non-payment, in six days after demand, to be committed till paid: but this not to extend to any country cart or waggon that shall bring any goods, or shall carry any goods half a mile beyond the paved streets of the said cities and places. 18 *Geo.* 2. *c.* 88. *s.* 38. As to the wheels of carts, &c. within the bills of mortality.

1837. Also any person, within the said limits, using any cart, car, or dray, having the wheels full six inches broad, when worn, may have the same bound round with tire of iron, provided it be six Using cart, &c. with wheels six inches broad.

* Repealed as to meal, malt, and coals, by 11 Geo. 3. c. 51.

inches broad, and made flat, and not set on with rose-headed nails. *Ibid.*

The Breadth, Widening, Changing, and Diverting Highways.

Highways may be changed by a writ of ad quod damnum.

1838. By the common law, an ancient highway cannot be changed without the king's licence first obtained, upon a writ of *ad quod damnum* *, and an inquisition thereon found, that such a change will not be prejudicial to the public: and it is said, that if one change a highway without such authority, he may stop the new way whenever he pleases; and it seemeth that the king's subjects have not such an interest in such new way as will make good a general justification of their going in it as a common highway, but that, in an action of trespass brought by the owner of the land against those who shall go over it, they ought to show specially, by way of excuse, how the old way was obstructed, and the new one set out; also it is said that the inhabitants are not bound to keep watch in such a new way, or to make amends for a robbery therein committed, or to repair it. 1 *Haw. c.* 76. *s.* 3.

Repair of a road made in pursuance of a writ of ad quod damnum.

1839. Where a new road is made in pursuance of a writ of *ad quod damnum*, and inquisition thereupon found, after the person who sued out the writ hath once made the said road, the parishioners

---

* The writ of *ad quod damnum* is an original writ, issuing out of and returnable into chancery, directed to the sheriff to inquire by a jury whether such change will be detrimental to the public; which inquisition, being a proceeding only *ex parte*, is in its own nature traverseable, and heretofore the party grieved might be heard against it before the Chancellor; but now, by 55 Geo. 3. c. 68. s. 3., jurisdiction is given to the justices in sessions to hear and determine appeals concerning the same.

ought to keep it in repair for the future; because, being discharged from the repairing of the old road, no new burden is laid upon them, but their labour is only transferred from one place to another. 3 *Atk.* 771.

A new road in another parish;

1840. But if the new road lie in another parish, then the person who sued out the writ, and his heirs, ought not only to make it, but to keep it in repair; otherwise the parishioners of such other parish would have a new charge upon them, and no recompense by the former road being taken away. *Ex parte Nennor*, 3 *Atk.* 772.

or by the act of God;

1841. A highway may be changed by the act of God; and therefore it hath been holden, that, if a water which has been an ancient highway by degrees changes its course, and goes over different ground from that whereon it used to run, yet the highway continues in the new channel, in the same manner as in the old. 1 *Haw. c.* 76. *s.* 4.

or by act of parliament;

1842. A highway inclosed by virtue of a *special* act of parliament (for dividing and inclosing open common fields), shall continue to be repaired by the parish or township as it was before, unless otherwise directed by the act; for if he who inclosed the ground adjoining to the highway were in such case obliged to repair, it might happen that his allotment of the common would not be worth the expense of repairing the way. *Rex v. the Inhabitants of Flecknow.* 1 *Burr.* 465.

or by two justices.

1843. In aid of the common law, and to render the changing of highways less troublesome and expensive, power is given to two justices of the peace to widen, divert, and change highways, as they shall judge most convenient. 13 *Geo.* 3. *c.* 78.

When two justices may widen a highway.

1844. In order to which, the surveyor shall make, support, and maintain every public cartway leading to any market-town twenty feet wide at the least, and every public horse-way or drift-way eight feet wide at the least, if the ground between the fences inclosing the same will admit thereof. 13 *Geo.* 3. *c.* 78. *s.* 15.

1845. And where it shall appear, upon the view of two justices, that any highway between the fences thereof is not of sufficient breadth, and may be conveniently widened and enlarged, or that the same cannot be conveniently enlarged and made commodious for travellers, without diverting and turning the same, the said justices shall order such highways respectively to be widened and enlarged, or diverted and turned, in such manner as they shall think fit, so that the said highways, when enlarged and diverted, shall not exceed thirty feet in breadth, and that neither of the said powers do extend to pull down any house or building, or to take away the ground of any garden, park, paddock, court, or yard. *Ibid.* s. 16.

Satisfaction to be made to the owner of the ground.

1846. And for the satisfaction of the person or persons, bodies politic or corporate, who are seised or possessed of, or interested in their own right, or in trust for any other in the ground that shall be laid into the said highways so to be enlarged, or through which such highway so to be diverted and turned shall go, the said surveyor, under the direction and with the approbation of the said justices, shall make an agreement with them for the recompense to be made for such ground, and for the making such new ditches and fences, as shall be necessary, in proportion to their several interests, and also with any other person, body politic or corporate, that may be injured by the enlarging or diverting such highways as aforesaid. And if the said surveyor cannot agree with them, or if they cannot be found, or shall refuse to treat, or to take such recompense as shall be offered by the surveyor, then the justices, at any general quarter-sessions, upon certificate in writing, signed by the justices who made such view, of their proceedings in the premises, and on proof of fourteen days' notice in writing having been given by the surveyor to the owner, occupier, or other person or body interested in such ground, or to his or their guardian, trustee, clerk, or agent, signifying an intention to apply to such quarter-sessions for the

purposes of taking such ground, shall impannel a jury out of the persons returned to serve at such sessions; and the said jury shall, upon their oaths, assess the damages to be given and recompense to be made, to the owners and others interested in the said ground, as they shall think reasonable, not exceeding forty years' purchase, for the clear yearly value of the ground; and likewise such recompense as they shall think reasonable, for making new ditches and fences on the side or sides of the said highways that shall be so enlarged or diverted; and also satisfaction to any person or body corporate that may be otherwise injured by the enlarging or diverting the said highways respectively. *Ibid.*

Costs of proceedings.

1847. If the jury shall give a verdict for more money than was offered by the surveyor before the application to the sessions, the costs attending the several proceedings shall be paid by the surveyor out of the money in his hands, or to be levied under this act: But if the jury shall give a verdict for no more, or for less than was offered by the surveyor, then the costs shall be paid by the person or body who refused to accept the satisfaction so offered to him as aforesaid. *Ibid. s.* 18.

On payment of money assessed, ground to be deemed a public highway.

1848. And on payment or tender of the money so to be awarded, or leaving it in the hands of the clerk of the peace, if the party entitled to receive it cannot be found, or shall refuse to accept it, the interest of such person or body in the said ground shall be divested out of them, and the said ground, after such agreement or verdict as aforesaid, shall be esteemed and taken to be a public highway, to all intents and purposes. *Ibid. s.* 16.

Saving to the owner.

1849. Saving nevertheless to the owner of such ground all mines, minerals, and fossils lying under the same, which may be got without breaking the surface of the highway, and also all timber and wood growing upon such ground, to be fallen and taken by such owner, within one month after such order made; or in default thereof, to be cut down by the surveyor within the respective months aforesaid, and

laid upon the land adjoining, for the benefit of the owner. *Ibid.*

Money to be raised for that purpose by assessment.

1850. Where there is not sufficient money in the hands of the surveyor, the said two justices, in case of agreement, or the said quarter sessions after such verdict as aforesaid, shall order an equal assessment to be made, levied, and collected, upon all and every the occupiers of lands, tenements, woods, tithes, and hereditaments in the parish, township, or place where such highway lies; and if not paid within ten days after demand, the same shall, by order of the said justices or court of quarter sessions respectively, be levied by the surveyor in the manner hereinafter mentioned. Provided, that no such assessment to be made in any one year shall exceed 6d. in the pound of the yearly value of the lands, tenements, woods, tithes, and hereditaments so assessed. *See* 54 *Geo.* 3. *c.* 109. *post.* *Ibid.*

Old way may be stopped up and the land sold, where a new way is made.

1851. When any such new highway shall be made as aforesaid, the old way shall be stopped up, and the land and soil thereof shall be sold by the surveyor, with the approbation of the said justices, to some person whose lands adjoin thereto, if he shall be willing to purchase the same; if not, to some other person, for the full value thereof. But if such old road shall lead to any lands, house, or place, which cannot, in the opinion of such justices respectively, be accommodated with a convenient way and passage from such new highway, in such case the old highway shall only be sold, subject to the right of way and passage to such lands, house, or place respectively. And the money arising by the sale shall be applied towards the purchase of the land where such new highway shall be made. And on payment or tender of the money, and on a certificate signed by the said two justices, or by the chairman of the said court of quarter sessions respectively, describing the lands so sold, and expressing the sum so agreed for, and directing to whom the same shall be paid; and on the purchaser's taking a receipt for such purchase-money from the person

entitled to receive the same by an indorsement on the back of such certificate, the soil of such old highway shall become vested in such purchaser and his heirs. But all mines, minerals, and fossils, lying under the same, shall continue to be the property of the person who would have been entitled to the same if such old highway had continued there.

Power of justices to order highways to be widened, extends to roads repairable ratione tenuræ.

1852. It has been decided, that the power thus given to *two* justices to order any highway to be widened, extends to roads repairable *ratione tenuræ;* and that, upon disobedience to such order, the party may either be proceeded against summarily under the statute, or by an indictment for an offence at common law. *Rex v. Balme,* 2 *Cowp.* 648. 1 *Haw. c.* 76. *s.* 57. 1 *Russ.* 454.

Repealed in part by 55 Geo. 3. c. 68.

1853. The 19th sect. of 13 *Geo.* 3. *c.* 78. enacted, that highways, bridleways, and footways might be diverted by the justices at their special sessions, with the consent of the owner of the lands, so as to make them nearer and more commodious to the public; and provided for an appeal to the quarter sessions by the persons injured by any such proceedings, or by the inclosure of any road by an inquisition upon a writ of *ad quod damnum:* but this part of the section is repealed by stat. 55 *Geo.* 3. *c.* 68. *s.* 1. which recites that it is expedient that more public notice should be given of any order made or proceeding had for diverting, turning, stopping, and inclosing any highway, bridleway, or footway; and also that a greater facility of appeal to the quarter sessions against such order or proceeding should be given to any person or persons who may think themselves aggrieved thereby: and also that the justices of peace should have power, under certain regulations, to stop up unnecessary highways, bridleways, and footways. 55 *Geo.* 3. *c.* 68. *s.* 2.

Justices in certain cases, by order of a special sessions, may divert and turn certain highways, bridleways, and footways.

1854. When it shall appear, upon the view of any *two* or more of the said justices of the peace, that any public highway, or public bridleway or footway, may be diverted, so as to make the same nearer or more commodious to the public, and the owner or owners of the lands and grounds through which such

new highway, bridleway, or footway, so proposed to be made, shall consent thereto, by writing under his or their hand and seal, or hands and seals, it shall and may be lawful, by order of such justices at some *special* sessions, to divert and turn, and to stop up such footway, and to divert, turn, stop up, and inclose, sell, and dispose of, such old highway or bridleway, and to purchase the ground and soil for such new highway, bridleway, or footway, by such ways and means, and subject to such exceptions and conditions, in all respects, as are in the said recited act mentioned with regard to highways to be widened or diverted; and also when it shall appear, upon the view of any two or more of the said justices of the peace, that any public highway, bridleway, or footway is unnecessary, it shall and may be lawful, by order of such justices, or any two of them, to stop up, and to sell and dispose of such unnecessary highway, bridleway, or footway, by such ways and means, and subject to such exceptions and conditions in all respects, as in the said recited act is mentioned, in regard to highways to be widened and diverted; except that the money to arise from such sale, where, by the said act, it would be applicable to the purchase of the ground and soil of the new highways or bridleways therein mentioned, shall be paid to the surveyor or surveyors, and be applied towards the general repairs of the highways and bridleways of the parish, township, or place, within which the said highway, bridleway, or footway, so stopped up, shall be situate: Provided, that in the several cases before mentioned, a notice, in the form or to the effect of schedule to this act annexed, shall be affixed in legible characters at the place and by the side of the said highway, bridleway, or footway from whence the same is directed to be turned, diverted, or stopped up, and also inserted in one or more newspaper or newspapers, published or generally circulated in the county where the parish, township, or place, in which the highway, bridleway, or footway, so ordered to be diverted and turned, or stopped up, (as the case may be) shall

Justices may order the stopping up of unnecessary highways, &c.

Notice must be affixed at the place, &c. and inserted in the newspapers of the county in which such highways, &c. shall lie;

lie, (or, in case no such newspaper shall be so published or circulated in such county, then in any newspaper or newspapers published or circulated in the nearest adjoining county), for three successive weeks after the making of such order; and a like notice shall be affixed to the door of the church or chapel of every parish or township in which such highway, bridleway, or footway so ordered to be diverted, turned, or stopped up, or any part thereof, shall lie, on three successive *Sundays* subsequent to the making of such order; and the said several notices having been so published, the said order shall at the quarter sessions, which shall be holden within the limit where the highway, bridleway, or footway, so diverted and turned, or stopped up, shall lie, next after the expiration of four weeks from the first day on which such notice shall have been published as aforesaid, be returned to the clerk of the peace in open court, and lodged with him; and the said order shall at such quarter sessions be confirmed, and by the clerk of the peace enrolled amongst the records of the said court of quarter sessions. *55 Geo.* 3. *c.* 68. *s.* 2.

and the order returned to the clerk of the peace, and confirmed and enrolled at quarter sessions.

1855. Where any such highway, bridleway, or footway, shall be so ordered to be stopped up or enclosed, and such new highway, bridleway, or footway, set out and appropriated in lieu thereof as aforesaid, or where any unnecessary highway, bridleway, or footway, shall be so ordered to be stopped up as aforesaid, it shall and may be lawful for any person or persons injured or aggrieved by any such order or proceeding, or by the inclosure of any road or highway, by virtue of any inquisition taken upon any writ of *ad quod damnum*, to make his or their complaint thereof, by appeal of the justices of the peace at the said quarter sessions, upon giving ten days' notice in writing of such appeal to the surveyor of the highways of the parish, township, or place wherein such highway, bridleway, or footway, shall be situated; and also affixing such notice to the door of the church or chapel of such parish, township, or place; and the said court of quarter sessions is hereby authorised

Persons injured by any such order or proceedings, may appeal to justices at quarter sessions, upon giving 10 days' notice.

and empowered to hear and finally determine such appeal. *Ibid. s.* 3.

If no appeal is made, or if such order be confirmed, the old ways may be stopped, and proceedings shall be conclusive; and new highways shall afterwards continue public highways, &c.

1856. If no such appeal be made, or being made, such order and proceedings shall be confirmed by the said court, the said inclosures may be made, and the said ways stopped; and the proceedings thereupon shall be binding and conclusive to all persons whomsoever; and the new highways, bridleways, and footways, so to be appropriated and set out, shall be and for ever after continue a public highway, bridleway or footway, to all intents and purposes whatsoever; but no inclosures of such old highways, bridleways, or footways, (except in the case of stopping up of such useless highways, bridleways, or footways, as hereinbefore is mentioned) shall be made, until such new highway, bridleway, or footway, shall be completed and put into good condition and repair, and so certified by two justices of the peace upon view thereof; which certificate shall be returned to the clerk of the peace, and by him enrolled amongst the records of the court of quarter sessions next after such order as aforesaid shall have been confirmed or enrolled, pursuant to the directions hereinbefore contained; but from and after the enrolment* of such order and certificate, such old highway, bridleway, or footway, shall be stopped up, and the soil of such old highway or bridleway sold, in the manner and subject to the re-

---

* In the 19th *s.* of 13 *Geo.* 3. *c.* 78. the words were, "*from and after such certificate;*" but in other respects, the clauses are nearly similar. Upon the 19th *s.* of 13 *Geo.* 3. *c.* 78. it was held by the court of C. P., that if the orders and certificates of magistrates were delivered to the clerk of the peace to be enrolled, the statute was satisfied, although the clerk of the peace made no transcript thereof, the statute being only directory to the officer as to this enrolment; and it is doubted whether that statute intended that a transcript should be made. *De Ponthieu v. Pennyfeather*, 5 *Taunt.* 634.

servations and restrictions in the said recited act mentioned, with respect to highways to be diverted by virtue of the said recited act. *Ibid. s.* 4.

1857. This act shall not annul or affect any order or proceeding made or had previous to the passing of the act. *Ibid. s. 5.*

The order of justices for diverting a highway, must state that the person consenting was the owner of the estate.

1858. An order of justices for diverting a highway, stated, that the new road was to pass through the lands of the late T. J., and that the justices had received evidence of the consent of the said T. J. in his lifetime. It was held, that the order was bad, because it did not thereby appear that T. J. was the owner of the estate at the time when the order was made. *Rex v. Kirk, M.* 3 *Geo.* 4. 1 *B. and C.*, 21.

Where a footway is diverted, three descriptions of notice must be given.

1859. When a footway, &c. is diverted by an order of justices, (*under* 55 *Geo.* 3. *c.* 68. *s.* 2. *see p.* 455, *pl.* 1854, *ante*,) *three* descriptions of notice are to be given, and the order is to be confirmed and enrolled at the quarter sessions, held *next after* the expiration of four weeks from the first day of giving notice. It was held, that the computation must be made from the first day of giving that description of notice which is last published; and it was also held, that an assent to the turning of the road given under the hand and seal of an agent of the party through whose grounds the new road is to pass is insufficient. *Rex v. Justices of Kent, E.* 4 *Geo.* 4. 1 *B. and C.*, 622. (*See Rex v. Kirk, pl.* 1857, *supra.*)

The order for stopping an unnecessary highway, must be made at a special sessions.

1860. An order for stopping an unnecessary highway (*under the* 55 *Geo.* 3. *c.* 68. *s.* 2. *pl.* 1855, *p.* 457, *ante*,) must be made at a *special* sessions*, and that fact must be made appear on the face of the order. *Rex v. Shephard, H.* 60 *Geo.* 3. *and* 1 *Geo.* 4. 3 *B. and A.*, 414.

1861. An appeal against the order of justices for

---

* By a special sessions, is meant a sitting of justices, convened by reasonable notice to all the justices acting and residing within the division.

stopping up an old highway, must be made to the quarter sessions *next after the order made*, without reference to any *notice* received by the appellant of such order. *Rex v. Justices of Pembrokeshire*, 2 *East*, 213.

Where an order is made for turning a footway, and afterward another for stopping up the old one, appeal may be made against the last order.

1862. If *two* justices make an order for directing and turning a public footpath, and afterwards an order for stopping up the old footway, the party grieved may appeal to the quarter sessions against the last order, though he is too late to appeal against the first. *Rex v. Justices of Herefordshire, H.* 55 *Geo.* 3. 3 *M. and S.*, 459.

Highways having been turned above 12 months without an order.

1863. Where any highway, bridleway, or footway, *hath been* diverted and turned above twelve months, either from necessity, where the same hath been destroyed by floods or slips of the ground, or from other causes and motives, if a new way hath been made in lieu thereof, nearer or more commodious to the public, and the same hath been acquiesced in, and no suit or prosecution hath been commenced for the diverting or turning the same, such new way shall from henceforth be the public way to all intents and purposes whatsoever: and all persons liable to the repair of any such old highway, bridleway, or footway, shall continue liable to the repair of such new way, except where any agreement shall have been made relative to such repair between the parties interested, which hath laid the burden thereof, or of any part thereof, upon any other person, in which case the same shall be observed. By 13 *Geo.* 3. *c.* 78, unrepealed by 55 *Geo.* 3. *c.* 68.

Unnecessary roads may be stopped up;

1864. If in any parish or place where a highway shall be diverted and turned by virtue of this act, it shall appear to the justices that there are *other* highways within such parish or place, besides that so to be diverted and turned, which may without inconvenience to the public be diverted into such new highway, or into any other within the same parish or place, and the charge of repairing the same may be thereby saved, the said justices may order such highway, which shall appear to them to be unnecessary, to be stopped up, and the soil thereof sold, in

such manner, and subject to such restrictions, and such right of appeal, as are herein before directed concerning highways to be stopped up or inclosed. 13 *Geo.* 3. *c.* 78. *s.* 20.

1865. The power to shut up roads is given only where there is a new road to be set out. It must be one entire act: the clauses 19 and 22 make one provision, and the powers under them are to make but one transaction. *Page v. Howard, Cald.* 228. *vide* 55 *Geo.* 3. *c.* 68. *s.* 2. (*See pl.* 1854, *p.* 455, *ante.*)

but in cases only where a new road is set out.

1866. No *common* land, lying between the fences of any old highway to be stopped up or inclosed by virtue of this act, shall be inclosed. And where the same, not being common land, shall upon a medium exceed 30 feet in breadth, and not extend to 50 feet, the same shall not be stopped up or inclosed until satisfaction be made to the owner for so much as shall exceed the breadth of 30 feet; and if the parties cannot agree, the same shall be adjusted by the said justices, or the jury, if a jury be impannelled. And if it shall exceed 50 feet in breadth, or if the old road be through the open field or ground belonging to any particular person, such person, and also the person or persons entitled to the land between the fences on the side of such highway, shall respectively hold and enjoy the land and soil of such old highway, and pay to the surveyor so much as shall be agreed on between the parties, or if they cannot agree, then so much as shall be adjudged by the said justices or jury, if a jury be impannelled, to be adequate to the purchase, estimating such highway at 30 feet in breadth upon an average. 13 *Geo.* 3. *c.* 78. *s.* 20.

Common lands lying near a road to be stopped up.

1867. Where any footway shall be diverted by this act, through the land belonging to the same person who owned the land through which such old footway lay, the same shall be deemed an exchange only; and no satisfaction shall be made, unless the land for the new footway be of greater length and of greater value than the land used for the old footway. And where the footway shall not be turned through the lands belonging to the same person, the

When old footways are stopped up, and new ones laid out, in what manner the owners of lands shall make and receive satisfaction.

damage which had been occasioned by the old footway to the lands through which it lay, if the parties interested shall not agree in adjusting the same, shall be adjudged by two indifferent persons, one to be named by the owner of the land, and the other by the said two justices; and if the persons so to be nominated cannot agree therein, they shall choose some third person to adjudge the same, whose determination shall be final. And the money at which such damages shall be assessed shall be applied in making satisfaction to the owner of the land through which such new footway shall be made. *Ibid. s.* 21.

How Assessments are to be made.

Assessment to pay expenses incurred for buying materials, making satisfaction for damages, &c.

1868. For reimbursing expenses for purchasing materials, and making satisfaction for damages in getting and carrying the same away; erecting guide-posts, or other posts, or stones; making or repairing trunks, tunnels, plats, bridges, or arches; for damages done to lands by making new ditches and drains; and for the salary to be paid by the parish, township, or place to the surveyor; upon application by the surveyor to the justices at a special sessions, and oath made of the sums he hath *bonâ fide* laid out, or which will be required for the purposes aforesaid, the said justices, or two of them, shall by their warrant under their hands and seals, cause an equal assessment to be made upon all occupiers of lands, tenements, woods, tithes, and hereditaments, to be made and collected by such person or persons, and allowed in such manner as the said justices by their order at such sessions shall appoint; and to be levied as after-directed.

Not to exceed 6d. in the pound in one year.

1869. No such assessment for those or any of those purposes, in any one year, shall exceed the rate of 6*d.* in the pound of the yearly value. *Ibid.*

If the duty and the money before-mentioned shall not be sufficient, the justices may order an assessment;

1870. If upon application of the surveyor to the justices at their general or quarter sessions, or at a special sessions for the highways, the said justices shall be fully satisfied by proof upon oath that the

duty hath been performed, and the money applied and expended according to the directions of this act, or shall be fully satisfied that the common highways, bridges, causeways, streets, or pavements, belonging to the parish, township, or place, are so far out of order that they cannot be sufficiently amended and repaired, paved, cleansed, and supported by the means hereinbefore prescribed (notice being first given of such intended application at the church or chapel on some *Sunday* preceding such quarter or special sessions; or, if the place be extra-parochial, notice in writing being first given of such intended application to some of the principal inhabitants residing in such extra-parochial place, a week at least before such general or special sessions); in such case, an equal assessment upon all and every the occupiers of lands, tenements, woods, tithes, and hereditaments, within any such parish, township, or place, for the said purposes, may be made and collected by such person, and allowed in such manner, as the said justices by their order at such general or special sessions shall direct. *Ibid. s.* 45.

but the whole assessment not to exceed 9d. per pound.

1871. The said assessment, and the assessment hereinbefore authorized for buying materials, making satisfaction for damages, erecting guide-posts, and paying the surveyor's salary, shall not together in any one year exceed the rate of 9*d.* in the pound of the yearly value. *Ibid. s.* 46.

1872. An assessment of 6*d.* in the pound may also be made in the extraordinary case pointed out, *pl.* 154. *p.* 44, *ante.*

Upon application of surveyor of the highways, justices may direct an additional assessment.

1873. If, upon the application of the surveyor of the highways of any parish, township, or place, to the justices of the peace at their general or quarter sessions, or at a special sessions for the highways, the said justices shall be fully satisfied that the common highways, bridges, causeways, streets, or pavements, belonging to such parish, township, or place, are so far out of order that they cannot be sufficiently amended and supported by the means in the said hereinbefore recited act of the 13 *Geo.* 3.

prescribed, and by the assessments therein authorised to be made and collected, it shall and may be lawful for the said justices to authorise, order, and direct an additional assessment to be made on such parish, township, or place (over and above all the assessments by the said act authorised to be made and collected); which said additional assessment shall be levied and collected by the same means, and in the same manner and form, as is directed for the levying and collecting the assessments made under the authority of the said hereinbefore recited act, and upon the same persons as are therein declared to be liable to be rated to the said assessments. 54 *Geo.* 3. *c.* 109. *s.* 1.

Notice of such application to be given.

1874. Notice of such intended application shall be first proved before the said justices, upon the oath of the surveyor making such application, to have been given at the church or chapel, on two *Sundays* preceding such general or quarter sessions, or special sessions for the highways; or, in townships or places where there are no churches or chapels, to have been stuck up in writing in two or more conspicuous places within the said townships or places, for one week at least previous to such general or quarter sessions, or special sessions for the highways; or, in extra-parochial places, to have been given in writing to some of the principal inhabitants residing in such extra-parochial place, a week at least before such general or quarter sessions, or special sessions for the highways; in order that any person or persons liable to be rated to the assessment intended to be applied for, may attend at such general or quarter sessions, or special sessions, if they shall think fit; there to state to the said justices any objections which he, she, or they may have to the making and collecting of such assessment. *Ibid. s.* 2.

Limiting the amount of assessment.

1875. The said assessment shall not exceed the rate of one shilling and ninepence in the pound on the actual value at the time of making such additional assessment. *Ibid. s.* 3.

Resisting the Execution of the Act.

1876. If any person shall resist or make forcible opposition against any person employed in the execution of this act, or make any rescue of the goods distrained; or if any constable shall refuse or neglect to execute or obey any warrant of a justice, he shall, on conviction before one justice, forfeit not exceeding 10*l.* nor less than 40*s.*, to be paid to the surveyor for the repair of the highways: if not forthwith paid, or secured to be paid after conviction, the justice shall commit him to the common gaol or house of correction for any time not exceeding *three months*, unless the forfeiture be sooner paid. 13 *Geo.* 3. *c.* 78. *s.* 71.

Penalty on persons resisting the execution of this act, or constable refusing to obey the warrant of a justice.

Penalty of the Surveyor for Neglect of Duty where no particular Penalty is imposed.

1877. If any surveyor, after his acceptance of the office, shall neglect his duty in any thing required of him, for which no particular penalty is imposed, he shall forfeit not exceeding 5*l.* nor less than 10*s.*, at the discretion of the justice or justices having jurisdiction therein. 13 *Geo.* 3. *c.* 78. *s.* 50.

Where no penalty is imposed.

Respecting the Surveyor's Account.

1878. The surveyor for every parish, township, or place, shall diligently collect the several assessments, forfeitures, penalties, sums of money, and compositions, directed and allowed to be received within the same by this act, within the year for which he is appointed surveyor. 13 *Geo.* 3. *c.* 78. *s.* 48. (1.)

To collect the assessments within the year.

1879. And shall keep a book, in which he shall enter a just and true account of all such money as shall have come to his hands, or to the hands of the

To keep a book and enter account of moneys received and paid;

said assistant, and to whom, and on what occasion, he hath paid or applied the same. *Ibid. s.* 2.

and of moneys due;

1880. And also shall enter in such book a list of all such sums of money as shall then remain due and owing from any person or persons, in respect of the payments, compositions, assessments, penalties, or forfeitures. *Ibid. s.* 3.

and of implements;

1881. And also an account of all tools, materials, implements, and other things provided by order of the inhabitants, at a vestry or other public meeting, for the repair of the highways, at the public expense of such parish, township, or place. *Ibid. s.* 4.

and produce the book at a public meeting;

1882. And shall produce the book and the assessments made in that year to the inhabitants at a vestry or other public meeting to be held for that purpose within 15 days before the special sessions to be holden *in the week next after Michaelmas quarter sessions* (*vide* 55 *Geo.* 3. *c.* 68. *s.* 6. *pl.* 1689. *p.* 405. *ante*), to the intent that the said accounts, assessments, and lists may be inspected by the said inhabitants. *Ibid. s.* 5.

and verify his accounts upon oath before a justice;

1883. And after the said book and assessments shall have been produced at such meeting, he shall take the same to a justice, and on such day and at such hour as shall be agreed upon at such meeting, some day after such meeting, and before such *last-mentioned special sessions* (*vide* 55 *Geo.* 3. *c.* 68. *s.* 6. *pl.* 1. *a. p.* 1. *ante*), and then and there verify such account, or any part thereof, upon oath, if required. *Ibid. s.* 6.

which may be allowed by the justice, or postponed to the special sessions.

1884. And such justice may allow such account if he find it just, or postpone it until such special session, if he find cause for so doing, in which case it may be settled and allowed at such special sessions, after the parts objected to by such justice shall have been explained and verified by proper evidence, to the satisfaction of the justices at such special sessions; and in case any articles contained in such accounts shall not be explained and proved to the satisfaction of such justices, they may disallow the same. *Ibid. s.* 7.

1885. For the account examined and taken, and oath administered, the justice's clerks shall have the sum of 1*s.* and no more; taking a greater fee incurs a penalty of 10*l.* for every offence. *Ibid. s.* 8.

1886. When the accounts shall be so settled and allowed, or disallowed as aforesaid, all the books and assessments shall be transmitted to the churchwarden or overseer of the poor of the parish, township, or place, or if the place be extra-parochial, then to some principal inhabitant thereof; to be kept for the use of the parish, township, or place: and the said surveyor shall forthwith deliver a duplicate of such book and account, together with all sums of money as shall remain in his hands, and likewise all tools, materials, implements, and other things as aforesaid, to the succeeding surveyor, if any new surveyor shall be appointed; or retain the same in his hands, and account for them in his next account, if he shall be continued surveyor in the succeeding year. *Ibid. s.* 9.

Books then to be delivered to a churchwarden or overseer, or principal inhabitant, and a duplicate thereof to the succeeding surveyor;

also all moneys, tools, &c.

1887. The succeeding surveyor may recover, collect, and receive all sums of money due and owing as aforesaid, as the preceding surveyor could or ought to have done. *Ibid. s.* 10.

Succeeding surveyor may collect arrears.

1888. And if such surveyor shall neglect to provide such book, or to enter such accounts and lists therein, or to deliver the said book and such duplicate thereof, and such assessments, tools, materials, implements, and other things, in the manner aforesaid, he shall forfeit not exceeding 5*l.* nor less than 40*s.* And if he shall make default in the paying or accounting for the money so remaining in his hands within the time, and according to the directions aforesaid, he shall forfeit double the money which shall be adjudged by the said justices to be in his hands. *Ibid. s.* 11.

Surveyor neglecting his duty.

1889. If the surveyor shall die before the accounts and lists be made out, or the money, book, assessments, tools, materials and implements shall be so delivered and paid, his executors or administrators shall make out, pay, and deliver the same, in

Surveyor dying.

like manner, and under the like penalty, as the surveyor was liable and subject to. *Ibid. s.* 12.

No appeal against surveyor's accounts.

1890. No appeal lies to the quarter sessions against the allowance of the accounts of a surveyor of the highways. *Rex v. Just. of the West Riding of Yorkshire*, 5 *T. R.* 628. *Rex v. Mitchell*, 5 *T. R.* 701. *S. P.* (*See pl.* 1925. *Appeal, p.* 475. *post.*)

Respecting the Presentment or Indictment of Highways in general.

Wants of repairs to be mentioned.

1891. All defects of repairs of highways shall be presented in the county where they lie, and not elsewhere.

What a presentment by a justice must express.

1892. A presentment by a justice of the peace under stat. 13 *Geo.* 3. *c.* 78. *s.* 24, of a nuisance in a highway must expressly allege the offence to be done *against the form of the statute. Rex v. Winter*, 13 *East*, 258. It is not enough to state that the justice *by virtue of the act, &c.* presented, &c. S. C.

Parish lying in two counties.

1893. If a parish lie in two distinct counties, an indictment must be brought against the whole parish. It was held indeed in a case in 5 *Burr.* 2507, that in such a case the indictment should be against that part of the parish in which the road lies.

When part of a parish is in one county, and part in another.

1894. But it has been more recently decided, that if part of a parish be situated in one county and the rest in another, and a highway lying in one part be out of repair, an indictment against the inhabitants of *that part only* is bad; and that the indictment should have been against the whole parish.

Essentials in an indictment for not repairing.

1895. In every indictment against a parish for not repairing a highway, there are three essential averments: the first, that the road is a highway; the second, that it is out of repair; and the third, that it is situated in the parish. 2 *Stark, C. P.* 667, *note* (*f*). 1 *Russ.* 478.

Plea by a parish.

1896. Upon an indictment against a parish for not repairing, they can give nothing in evidence upon the plea of not guilty, but that the way is in repair; but if it be against a particular person, he

By an individual.

may give evidence that others ought to repair it. 1 *Mod.* 112. *Rex v. Ireton, Comb.* 396.

Paving a particular street under a statute, the inhabitants are not exempted from their liability to keep it in repair.

1897. Where a statute enacted that the paving of a particular street should be under the care of the commissioners, and provided a fund to be applied for that purpose, and another statute, which was passed for paving the streets of the parish, contained a clause that it should not extend to the particular street, lord *Ellenborough* C. J. held, that the inhabitants of the parish were not exempted from their common law liability to keep that street in repair; that the duty of repairing might be imposed upon others, and the parish be still liable; and that the parish were under the obligation, in the first instance, of seeing that the street was properly paved, and might seek a remedy over against the commissioners. *Rex v. Inhabitants of St. George, Hanover Square.* 3 *Camp.* 222. *pl.* 1717. *p.* 412. *ante.*

When a particular person is bound to repair.

1898. If a particular person be bound to repair a highway, either by inclosure or by prescription, the parish cannot take advantage of it upon the plea of *not guilty*, but ought to set forth their discharge in a special plea. *Haw. c.* 76. *s.* 9.

No excuse for the inhabitants not repairing a highway.

1899. It is no excuse for the inhabitants of a parish, being indicted at common law for not repairing the highways, that they have done all that is required of them by statute; for since these statutes are only in the affirmative, and made in aid of the common law, and to supply the defects thereof, they shall not be construed to abrogate any provision thereby made for these purposes. So that at all events the parish may be compelled to make their ways good. 1 *Haw. c.* 76. *s.* 18.

Inhabitants at a meeting may agree to prosecute an indictment.

1900. If the inhabitants of any parish, township, or place shall agree at a vestry or public meeting to prosecute any person by indictment for not repairing any highway within such parish, township, or place, which they apprehend such person was obliged by law to repair, or for committing any nuisance upon any highways, or shall agree at such vestry meeting to defend any indictment or presentment against them, the surveyor may charge in his ac-

count the reasonable expenses thereof, after the same shall have been agreed to by such inhabitants at a vestry or public meeting, or allowed by a justice within the limit where such highway shall be. 13 *Geo.* 3. *c.* 78. *s.* 65.

Notice required for holding vestry or public meeting how to be given.

1901. In all cases where a vestry or public meeting of the inhabitants of any parish, township, or place is directed by this act, public notice shall be given of the day, hour, and place of holding the same at the church or chapel on the *Sunday* next before; and also notice thereof in writing specifying the purpose of such meeting, fixed at the same time upon the door of such church or chapel: and the same shall not be held till three days at least after such notice given. And if there be no church or chapel, the like notice shall be given in writing, and put up at the most public place therein, three days at least before such meeting. 13 *Geo.* 3. *c.* 78. *s.* 66.

Court may award costs on an indictment to the prosecutor or defendant.

1902. The court before whom any indictment or presentment shall be tried for not repairing the highways may award costs to the prosecutor, to be paid by the person indicted or presented, if it shall appear that the defence was frivolous; or costs to the person indicted or presented, to be paid by the prosecutor, if it shall appear that the prosecution was vexatious. *Ibid. s.* 65.

Respecting a Presentment by a Justice.

Justices may present on their own view.

1903. Every justice of assize, justices of the counties palatine of *Chester*, *Lancaster*, and *Durham*, and of the great sessions in *Wales*, shall have authority upon their own view, and every justice of the peace either upon his own view, or upon information on oath given to him by the surveyor, to make presentment at their respective assizes or great sessions, or in the open general quarter sessions of the peace, of any highway, causeway, or bridge not well and sufficiently repaired and amended, or of any other default or offence committed and

done contrary to the provision and intent of this statute. 13 *Geo.* 3. *c.* 78. *s.* 24. *See* 2 *Saund.* 157 *et seq.*

1904. The justices at their general quarter sessions, or the major part of them may, if they see just cause, direct the prosecution on such presentment as shall be made at the quarter sessions to be carried on at the general expense of such limit, and to be paid out of the general rates within the same. Sessions may order the prosecution to be carried on at the expense of the division.

1905. And for every such default so presented, the justices of assize, counties palatine, and great sessions, and justices of the peace at their respective courts, may assess such fines as they shall think meet. Fines may be assessed by the justices.

1906. And no such presentment, nor any *indictment* for any such default or offence, shall be removed by *certiorari* or otherwise, out of such jurisdiction, till the same be traversed, and judgment thereupon given; except where the duty or obligation of repairing may come in question. Certiorari.

Respecting the Levying of Assessments, Fines, and Forfeitures.

1907. If any person shall refuse or neglect to pay the sum assessed upon him by any assessment in pursuance of this act, within ten days after demand thereof made, the same shall be levied by the surveyor or any other person authorised by warrant of one justice by distress and sale, rendering the overplus, the necessary charges of distress and sale being deducted; and in default of distress the justice may commit him to *the common gaol*, there to remain until he shall have paid the sum so assessed, and the costs and charges occasioned by such neglect or refusal. 13 *Geo.* 3. *c.* 78. *s.* 67. Levying of assessments.

1908. And the surveyor may in all cases be a witness, notwithstanding his salary may arise in part from the forfeitures and penalties. *Ibid. s.* 68. *See Phill. Ev.* 126, *4th edit.* Surveyor may be a witness.

1909. The inhabitants of a parish indicted for not repairing a highway are not competent to give evi- Inhabitants not competent to give evidence on an

Indictment for not repairing.

dence for the defendants. *Rex v. Inhabitants of Wandsworth*, 1 *B. and A.* 66. 15 *East*, 471. 1 *Phill. Ev.* 4*th edit.* 119.

Fines for not repairing highways.

1910. No fine, issue, penalty, or forfeiture, for not repairing highways, or not appearing to any indictment or presentment for not repairing the same, shall be returned into the exchequer or other court, but shall be levied by and paid to such person or persons residing in or near the parish, township, or place where the road shall lie, as the court imposing the same shall order, to be applied towards the repair of the highways. And the person or persons so ordered to receive such fine shall receive, apply, and account for the same, according to the direction of such court, or in default thereof shall forfeit double the sum received. 13 *Geo.* 3. *c.* 78. *s.* 47.

Fines, &c. to be levied on one or more of the inhabitants.

1911. If any fine, issue, penalty, or forfeiture on any such parish, township, or place for not repairing the highways, or not appearing as aforesaid, shall be levied on one or more of the inhabitants, such inhabitant shall make his complaint to the special sessions; and the justices there shall by their warrant cause a rate to be made, according to the form and manner hereinbefore last prescribed for reimbursing such inhabitants: which rate so made and confirmed by two justices shall be collected and levied by the surveyor; who shall within one month after making and confirming the rate, collect, levy, and pay to such inhabitant the money so levied as aforesaid. *Ibid. s.* 47.

Only one fine for not repairing.

1912. Only one fine can be imposed for not repairing a highway. *Rex v. Inhabitants of Old Malton, Yorkshire Summer Assizes*, 1794. 4 *B. and A.* 479 (*n*).

Where a parish consists of two districts.

1913. Where a parish consisting of two districts, which were bound to repair separately, having been convicted for not repairing a road in one of the districts, the other district not having had notice of the indictment, the Court considered it as substantially the conviction of the one district; and a fine having been levied on an inhabitant of the other, they granted a *special mandamus* for a rate to be

levied on the district bound to repair the indicted part of the road. *Rex v. Townshend and another*, 2 *Dougl.* 420.

Penalties and forfeitures, costs and charges, how to be recovered and applied.

1914. All penalties and forfeitures by this act imposed for any offence against the same, and all costs and charges to be allowed and ordered by the authority of this act, (the manner of levying and recovering whereof is not hereby otherwise particularly directed), shall be levied by distress and sale, by warrant of some justice, where the offence, neglect, or default shall happen or such order for payment of such costs or charges shall be made, which warrant such justice shall grant, on conviction of the offender by confession, or the oath of one witness, or upon order made as aforesaid. And the penalty and forfeitures, when levied, shall be paid half to the informer, and half to the surveyor, for the repair of the highways, unless otherwise directed by this act. But if the surveyor shall be the informer, then the whole shall be employed towards the repair of the highway. And if such distress cannot be found, and such penalties and forfeitures or the said costs and charges shall not be forthwith paid, the justice shall commit the offender or person liable to pay the same to the common gaol or house of correction for any time not exceeding three months, unless the penalty, forfeiture, costs, and charges respectively be sooner paid. 13 *Geo.* 3. *c.* 78. *s.* 72.

Offender living out of the district.

1915. And if the offender, or person liable, or ordered to pay the same, live out of the jurisdiction of the said justice, any justice of the limit where such person shall inhabit, on request to him made, and on a true copy of the conviction and of the order of payment of such costs and charges being produced and proved before him by one witness upon oath, shall by his warrant cause the penalty or forfeiture mentioned in such conviction, and the costs and charges mentioned in such order, or so much thereof as shall not have been paid, to be levied by distress and sale; and if no sufficient distress can be had, shall commit him to the common gaol or house

of correction of such limit for the time and in the manner aforesaid. *Ibid.*

Distress as to penalties, not to be made till six days after conviction.

1916. But no warrant of distress, unless otherwise directed by this act, shall be issued for levying any penalty or forfeiture, costs or charges, until six days after the offender shall have been convicted, and an order made and served upon him for payment thereof. *Ibid. s.* 23.

Penalties above 40*s.* may be sued for.

1917. The prosecutor or informer may at his election sue for and recover any forfeiture or penalty imposed by this act, which shall amount to 40*s.* or upwards (if the recovery thereof be not otherwise particularly directed by this act) either in the manner hereinbefore directed, or by action of debt in any of his majesty's courts of record, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of ———— being forfeited by an act passed in the 13th year of the reign of his late majesty, intituled "*An act to explain, amend, and reduce into one act of parliament, the statutes now in being for the amendment and preservation of the public highways within that part of* Great Britain *called* England, *and for other purposes;*" and the plaintiff, if he recover, shall have double costs. *Ibid. s.* 75.

No more than one recovery for the same offence.

1918. There shall be no more than one recovery for the same offence; and that ten days' notice in writing be given to the party offending previous to the commencement of such action; and that the same be brought within one calendar month after the offence committed. *Ibid.*

Witnesses.

1919. No conviction shall be had, unless upon confession or oath of one witness, or view of the justice. *Ibid. s.* 76.

Inhabitant may be witness.

1920. Any inhabitant, where the offence shall be committed, may be a witness notwithstanding his being an inhabitant of such parish, township, or place. *Ibid.*

Justice may administer oath.

1921. And any justice may administer an oath to any witness or other person, for the better discovery and execution of the several matters or things herein

directed to be inquired into and performed. *Ibid. s.* 77.

Irregularity in the proceedings.

1922. Where any distress shall be made for any sum to be levied by virtue of this act, the distress shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any default or want of form in the proceedings; nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity which shall be afterwards done by the party distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case. *Ibid. s.* 78.

Tender of amends.

1923. No person shall recover in any action for any irregularity, trespass, or wrongful proceedings, if tender of sufficient amends shall be made before the action brought; and if no tender hath been made, the defendant by leave may pay into court such sum as he shall see fit, whereupon such proceedings shall be had as in other actions where the defendant is allowed to pay money into court. *Ibid. s.* 79.

Certiorari.

1924. And no proceedings had in pursuance of this act, shall be quashed for want of form, or removed by *certiorari* or any other process into any of his majesty's courts of record at *Westminster*. *Ibid. s.* 80.

Respecting the Appeal.

Appeal may be made to quarter sessions by the person aggrieved by any thing done in the execution of this act.

1925. If any person shall think himself aggrieved by any thing done by any justice or other person in the execution of this act, and for which no particular method of relief hath been already appointed, he may appeal to any general quarter sessions for the limit where the cause of complaint shall arise, giving notice in writing of his intention to bring such appeal and of the matter thereof to the justice, or other person against whom the complaint shall be made, within six days after the cause of such complaint arose; and within four days after such notice entering into recognizance before a justice

within such limit, with one sufficient surety, conditioned to try such appeal at and abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions. 13 *Geo.* 3. *c.* 78. *s.* 80.

No appeal lies against the surveyor's accounts.

1926. Under this clause it has been holden that no appeal lies against the allowance of the surveyor's accounts. The 80th section only gives an appeal in cases where there is no other remedy. But in this case relief is provided by the 48th section. The books of accounts, *after having been examined by the inhabitants at a vestry, are to be taken to one justice,* who may allow such accounts if he please; but if he has any difficulty, he may refer them to the petty sessions, where they are to be examined and allowed; "and when the said accounts shall be so settled and allowed;" that is, either by the single justice, or by the petty sessions, they are to be kept for the use of the parish. This mode of allowing the accounts was prescribed for the purpose of preventing any appeal to the quarter sessions. It is immaterial whether the accounts are first taken to one magistrate, and afterwards to the petty sessions; or whether they are taken at once to the petty sessions. In neither case does an appeal lie to the quarter sessions. *Rex v. Justices of the West Riding of Yorkshire,* 5 *Term Rep.* 629; *and Rex v. W. Mitchell, ib.* 701.

Proceedings before justices to be returned to the quarter sessions.

1927. And such justice and other person, having received such notice, shall return all proceedings had before them, touching the matter of such appeal, to the said general quarter sessions; on pain of 5*l.* 13 *Geo.* 3. *c.* 78. *s.* 80.

No appeal unless notice of appeal be given.

1928. No appeal shall be made against any conviction for a penalty or forfeiture, unless the person convicted shall at the time of such conviction, if he be then present, if not, *within six days* after, give notice of his intention to appeal, and at the same time enter into recognisance with sufficient sureties to pay such penalty or forfeiture, in case the conviction be affirmed upon the appeal: and on his giving such security, the further proceedings for such

penalty or forfeiture shall be suspended until the appeal be heard and determined. *Ibid.*

Limitation of Actions.

1929. If any action shall be commenced for any thing done in the execution of this act, the same shall be brought *within three calendar* months, and within the county where the fact was committed, and the defendant may plead the general issue; and if he prevails in the action, he shall have treble costs. See *Roberts v. Read and others*, 16 *East*, 215.

Actions to be brought within three calendar months.

TITHES.

Of small Tithes due from any Person.

1930. If any person shall subtract or withdraw, or fail in the true payment of small tithes, oblations, offerings, or obventions, where the same do not amount to the value of 40*s.* (*increased to* 10*l. by* 53 *Geo.* 3. *c.* 127. *s.* 4. *post*), by the space of twenty-one days at most after demand, the person to whom small tithes shall be due, within two years (and not in *London*, nor any places where tithes are otherwise settled by act of parliament), may make complaint in *writing* *, to *two* or more justices of the peace of the county where the same shall become due (*neither of them being the patron of the church or chapel where the tithes arise, nor any ways interested in them*). 7 *and* 8 *W.* 3. *c.* 6. *s.* 1. *See also* 53 *Geo.* 3. *c.* 127. *s.* 4. 6, 7.

Tithes, offerings, &c. not paid in twenty days after demand.

1931. Upon such complaint being made, the justices are required to summon, in writing under their hands and seals, every person complained against,

Justices on complaint to issue a summons and determine the complaint.

* An order for nonpayment of small tithes was quashed, stated to be only upon *complaint* generally, and the statute requires the complaint to be in *writing*. *Rex v. Furness*, 1 *Str.* 264.

and after his or their appearance, or in default of appearance, on proof of the service of the summons upon oath, the said justices, or any *two* of them, shall proceed to hear and determine the complaint; and upon proofs, evidences, and testimonies produced before them, shall, in writing under their hands and seals, adjudge the case, and give such reasonable allowance and compensation for such tithes, &c. so subtracted or withheld, as they shall judge just and reasonable, and costs not exceeding 10*s*. *Ib.* 2.

Refusing to pay in ten days after notice, distress, &c.

1932. Refnsing or neglecting to pay the same for ten days after notice, the constables and churchwardens of the parish, or one of them, shall by warrant under the hands and seals of the said justices to them directed, distrain the goods and chattels of the party refusing or neglecting to pay, and after detaining the goods, &c. for three days, in case the sum adjudged to be paid, together with the reasonable charges of making and detaining the distress, is not tendered or paid in the mean time, shall make public sale thereof, and pay the complainant so much money as may satisfy the sum adjudged, retaining reasonable charges for making and keeping the distress as the said justices shall think fit, rendering the overplus (if any) to the owner. *Ibid. s.* 3.

Appeal to the next general quarter sessions.

1933. Any person aggrieved by the judgment of such two justices may appeal to the next *general quarter sessions*, and the justices there shall proceed finally to hear and determine the matter, and to reverse the judgment of the said first two justices if they see cause, &c., and if the justices shall confirm the judgment they shall decree the same by order of sessions, and shall give such costs against the appellant as to them shall seem just and reasonable, to be levied by distress and sale of his goods and chattels; *no certiorari* or other writ to remove or supersede the judgment unless the title to the tithes, &c. shall be in question. *Ibid. s.* 7.

If judgment affirmed, justices to give costs against the appellant.

Persons complained of insisting on a composition, &c. and giving security to pay costs, justices not to give judgment.

1934. If any person complained of for subtracting or withholding small tithes or other dues, &c. shall, before the justices of the peace before whom the complaint is made, insist upon any prescription,

composition, or *modus decimandi* agreement or title, whereby he ought to be freed from payment of the said tithes, &c. in question, and deliver the same in writing to the said justices subscribed by him, and shall give to the complainant reasonable and sufficient security to the satisfaction of the said justices, to pay such costs of the trial at law as shall be given against him, in case the prescription, composition, or *modus decimandi* shall not be allowed; in that case the said justices shall forbear to give judgment in the matter, and in such case the person complaining shall be at liberty to prosecute the person for *subtracting* in any other court where he might have sued before the making of this act. *Ibid. s.* 8.

Where a person is summoned and ordered to pay, not raising the question of title to setting up a modus.

1935. Where a person who had been summoned by two justices under the *7 and* 8 *W.* 3. *c.* 6. *s.* 1, (*pl.* 1930. *p.* 477. *ante*,) appeared before them and was ordered to pay the tithes demanded, and did not raise any question of *modus*, but afterwards appealed to the sessions, and there for the first time set up a *modus*, and tendered evidence to prove it; it was held that the justices at sessions might, in the exercise of their discretion, reject the evidence. *Rex v. Jeffreys, E.* 4 *Geo.* 4. 1 *Barnewall and Cresswell*, 604.

Justices cannot try the question of title.

Semble. That the power of justices to try questions of tithe under *7 and* 8 *W.* 3. *c.* 6. is taken away by the *8th sect.* of that act (*pl.* 1934. *above*,) where a question of *modus* is raised.

Persons against whom judgment shall be affirmed removing out of the county.

1936. If the person against whom judgment shall be affirmed, shall remove out of the county before the sum shall be levied, the justices who made the judgment, or one of them, shall certify the same under hand and seal to any justice of the other county, who shall by warrant order the same to be levied in like manner. *Ibid. s.* 10.

Judgment to be enrolled at the next sessions.

1937. Every person who shall obtain any judgment, or against whom any judgment shall be obtained, shall cause the same to be enrolled at the *next* sessions. *Ibid. s.* 9.

The recovery of

1938. The recovery of small tithes by the 7 *and*

small tithes extended to 10*l.*

8 *W.* 3. *c.* 6. to the value of 40*s.* is extended to 10*l.* by this act, and justices of the peace are authorised and required to hear and determine all complaints touching tithes, oblations, and compositions subtracted or withheld, where the same shall not exceed 10*l.* in amount from any one person, in all such cases, and by all such means, and subject to all such provisions and remedies by appeal or otherwise, as are contained in the said act of king *William*, touching small tithes, oblations, and compositions not exceeding 40*s.* 53 *Geo.* 3. *c.* 127. *s.* 4.

One justice may recover the original complaint.

1939. One justice of the peace is competent *to receive the original complaint*, and to summon the parties to appear before two or more justices of the peace, as in the said act is set forth. *Ibid.*

Tithes are not recoverable after six years from the time they became due.

1940. No action can be brought for the recovery of any penalty for the not setting out tithes, nor any suit instituted in any court of equity, or in any ecclesiastical court, to recover the value of any tithes, unless within *six* years from the time when such tithes became due. *Ibid. s.* 5.

Of Tithes, Church Rates, &c. due from Quakers only.

Quakers refusing to pay or compound for tithes, church rates, &c.

1941. Where any quaker refuses to pay or compound for tithes or to pay church rates, (or for any customary or other rights, dues, or payments, belonging to any church or chapel, which of right by law and custom ought to be paid for the stipend or maintenance of the minister or curate officiating in any church or chapel, under the 1 *Geo.* 1. *H.* 2. *c.* 6. *s.* 2.) any *parson, vicar, curate, farmer,* or *proprietor* of such tithes, or any churchwarden or chapelwarden, or other person who ought to have, receive, or collect any such tithes, rates, dues, or payments, may make complaint to any two justices, other than such as is patron of the church or chapel, or any way interested in the tithes. 7 *and* 8 *W.* 3. *c.* 6. *s.* 4.

Summons.

1942. Upon which complaint the said justices shall summon, in writing under their hands and seals, by reasonable warning, such quaker. (By 53 *Geo.* 3.

c. 127. *s.* 6. one justice of the peace shall be competent to receive the original complaint, and to summon the parties to appear before two or more justices. *Ibid.* One justice may receive the original information.

1943. And after appearance, or on default of appearance (the warning or summons being proved before them upon oath), they may proceed to examine on oath (or in such manner as by this act is provided) the truth of the complaint, and to ascertain and state what is due and payable. *Ibid.* Hearing.

1944. And by order under their hands and seals, they may direct and appoint the payment thereof; so as the sum ordered do not exceed 10*l.* (And by 53 *Geo.* 3. *c.* 127. *s.* 6., all the provisions of the said acts of *W.* 3. and *Geo.* 1. shall be deemed and taken to extend to any value not exceeding 50*l.*) And also such costs and charges, as they shall think reasonable, not exceeding 10*s.* Adjudication.

1945. And on refusal to pay, it shall be lawful for any one of the two *next* justices, by warrant under his hand and seal, to levy the same by distress and sale of the goods of such offender, his executors or administrators, rendering the overplus, the necessary charges of distraining being thereout first deducted and allowed by the said justice; unless it be in the case of appeal, and then no warrant of distress shall be granted till after the appeal shall be determined. Distress and sale.

1946. Therefore it is best *not to make out*, at least not to execute, the warrant of distress, until after the *next* sessions. When the warrant of distress should be made out.

1947. No time being limited for detaining the distress, nor charges allowed for the keeping of it, it may be sold immediately. Distress may be immediately sold.

1948. The statute which in all other cases gives the justices power, in their warrant of distress, to order the goods distrained to be detained for a certain time, not less than *four* days, the *tithes* and *church rates* of quakers (although not those other dues and payment) above mentioned are excepted. 27 *Geo.* 2. *c.* 20. Except quakers' tithes and church rates.

1949. The statute limits the proceedings to the Proceedings

limited to any two justices not interested.

two *next* justices (*not interested*); and the statute of the 1 *Geo.* enlarges the same to *any* two justices (*not interested*) as to the complaint, summons, and order, but restrains the *distress* to the limitations in the statute of the 7 *and* 8 *W.* that is, to one of the two *next* justices as aforesaid; which possibly may have been an oversight, for it may happen hereupon that neither of the two justices which made the order can enforce the execution of it by distress. To prevent which inconvenience, it may be proper that *one* at least of the justices complained to be one of the two next justices (*not interested*). 7 *and* 8 *W.* 3. *c.* 6.

1950. Persons aggrieved by the judgment of the justices may appeal to the *next* sessions; where if the judgment shall be affirmed, they shall decree the same by order of the sessions, and give costs against the appellant, to be levied by distress and sale as to them shall seem reasonable. *Ibid. s.* 7.

1951. For the recovery of church or chapel rates from quakers and others to a certain amount, *see title "Churchwardens," ante, and* 53 *Geo.* 3. *c.* 127.

CHARITABLE DONATIONS.

Registering and securing Charitable Donations.

Deeds, &c. respecting charitable donations to be registered in the office of the clerk of the peace within ten calendar months after.

1952. The statute for securing charitable donations, which recites that charitable donations have been given for the benefit of the poor and other persons in *England* and *Wales* to a very considerable amount, and many of them appear to have *been lost,* and others, from the neglect of payment, and the *inattention* of those persons *who ought to superintend them,* are in danger of being lost or rendered very difficult to be preserved; enacts that a memorial or statement of the real and personal estate, and of the gross annual income investment, and the general and particular objects of all charities and charitable donations for the benefit of any poor or other persons in

any place in *England* and *Wales*, *which shall have been founded, established,* and made, *benefited, increased, or secured,* together with the names of the respective founders of, or *benefactors* thereto, where known, and also of the person or persons in whose custody or control the deeds, wills, or other instruments, whereby such charitable donations shall have been provided, &c. &c. may be, and also the names of the then *trustees, feoffees,* or *possessors* of such estates shall from and after *six* calendar months after the passing of this act * be registered by such trustees, &c. or some or one of them in the form set forth in the schedule or the act annexed, in the office of the clerk of the peace of the county, or city, or town being a county of itself, within which such poor or other persons shall be, and such memorial or statement shall be signed by such person or persons, causing the same to be registered in the office of such clerk of the peace, who shall forthwith transmit a duplicate or copy of the same unto the enrolment office of the High Court of Chancery. 52 *Geo.* 3. *c.* 102. *s.* 1. *

A memorial of charitable donations secured by any deed, will, or instrument to be registered.

1953. Wherever any such charity or charitable donations shall be founded, established, made, or benefited, or secured by any deed, will, or other instrument *hereafter* to be made or executed by any person or persons, a like memorial or statement shall be registered and transmitted as aforesaid within *twelve calendar months* after the decease of the person by whom any such will, deed, or deeds, or other instruments shall have been made or executed. *Ibid. s.* 2.

Books for registering to be kept.

1954. Clerks of the peace are to provide proper books wherein registries shall be made, to be kept for public use and inspection, with a correct *index*. *Ibid. s.* 3.

Notice in the Gazette.

1955. Notice to be given in the *London Gazette*, if persons benefitted shall not be wholly within one county. *Ibid. s.* 4.

---

* Intituled "An act for the registering and securing charitable donations." Passed 9th July, 1812.

Where charitable donations are not registered, a petition may be presented to the lord chancellor.

1956. If any such charity or charitable donation shall not be registered, a petition may be presented to the lord chancellor, lord keeper, or lords commissioners for the custody of the great seal, or master of the rolls, or the court of exchequer, complaining thereof; and they are required to hear such petition in a summary way, and upon affidavits or such other evidence as shall be produced upon the hearing, to determine the same, and to make such order therein, and with respect to the costs of such application and proceedings as to him or them shall seem fit, and which order shall be *final* and *conclusive*. *Ibid. s.* 5.

Proceedings not to decide any right or title.

1957. But no such proceedings shall extend to decide any right or title as to the property that shall be so registered, or as to the persons who shall be entitled or claim to be entitled to the benefit thereof or any interest therein. *Ibid. s.* 6.

Clerks of the peace to make searches, &c.

1958. Clerks of the peace, when required, are to make searches and give copies of registers to any person whomsoever on payment for the same, as in the said act is directed. *Ibid. s.* 78.

Further time allowed to register memorials.

1959. Further time is allowed, not exceeding *six calendar* months, to register memorials, where difficulties occur in preparing the statement. *Ibid. s.* 9.

Costs attending the registering may be allowed by the quarter sessions.

1960. The quarter sessions of the county, &c. where such statement or memorial shall have been registered, have power to allow reasonable costs and charges attending the registering, &c., with reference to the income of the charity or charitable donation, to the person registering as the court shall think fit, to be deducted out of the income, funds, &c. of the charity. *Ibid. s.* 10.

The provisions of this act do not extend to charitable donations secured on lands, &c.

1961. None of the provisions of this act shall extend to any charity or charitable donation not secured upon lands, &c., or to be permanently invested in government or any public stocks or funds, nor to any charitable donation, which by the direction of the donor, or by the rules thereof, may be wholly or in part expended in the charitable purposes for which the same may have been given, at the discretion of the governors, directors, managers, or trustees.

Nor to royal foundations.

1962. Nor to extend to any royal foundations, nor

to certain institutions, nor to charitable institutions of quakers, nor to charitable foundations, the accounts of which are directed to be passed in the court of chancery, &c. *Ibid. s.* 11, 12.

1963. Divers charities may be stated in one memorial, *s.* 14.

1964. Lands subjected to charitable trusts, may be exchanged for other lands by commissioners appointed for that purpose by the bishop of the diocese. 1 *and* 2 *Geo.* 4. *c.* 92. Exchanging lands.

1965. In every case of a breach of any trust, or supposed breach of any trust created for charitable purposes, or whenever the direction or order of a court of equity shall be deemed necessary for the administration of any trust for charitable purposes, *any two or more persons* may present a petition to the lord chancellor, lord keeper, or lords commissioners for the custody of the great seal, or master of the rolls for the time being, or to the court of exchequer, stating the complaint, and praying such relief as the nature of the case may require, who are required to hear justification in a summary way; and upon affidavits, or such other evidence as shall be produced upon such hearing, to determine the same, and to make such order therein as to costs as shall seem just, and which order shall be final and conclusive, unless the party who shall think himself aggrieved, *within two years* from the passing and entering of the order by the proper officer, has preferred an appeal from such decision to the house of lords, to whom an appeal lies from such order. 52 *Geo.* 3. *c.* 101. *s.* 1. In cases of breach of trust, a petition to be presented to the lord chancellor, &c. Appeal to the house of lords.

1966. The trustees of a charity not appearing to a petition, an order was made that they should show cause why the court should not make the order prayed, or such other order as to the court should seem meet. *Ex parte Peagears,* 1 *V. and B.* 496. 1 *Evan's Coll. Stat. p.* 330. Where trustees neglect to appear to a petition.

1967. Every such petition shall be signed by the persons preferring it, in the presence of, &c., attested by the solicitor or attorney for the petitioner, and every petition must be submitted to and allowed by the attorney or solicitor general, to be certified The petition to be signed by the persons preferring it, and attested by the attorney for the petitioner.

by him before the petition can be presented. 52 *Geo.* 3. *c.* 101. *s.* 2.

Exemption from stamp duty.

1968. All proceedings under this act are free from stamp duties. *Ibid. s.* 3.

WEIGHTS AND MEASURES.

Inhabitants in vestry may appoint examiners of weights and balances.

1969. If the majority of the inhabitants of any parish, &c. shall be desirous that any person or persons should be specially appointed to examine the weights and balances within the parish, &c., the inhabitants, at a vestry holden for that purpose, may nominate *one* or *more* substantial householder or householders to be approved of and appointed by the justices at *petty sessions*, for the division or districts in which the parish, &c. shall lie, which person or persons so nominated, approved, and appointed, shall have the same powers and authorities within the parish, &c., as are vested in the person or persons appointed for any district (under the 37 *Geo.* 3. *c.* 143, *pl.* 1971.)

No such appointment to be made till the inhabitants have procured standard weights, the costs of which and the recompense to the examiner, to be paid out of the poor's rate.

1970. But no such appointment shall be made until the inhabitants have procured the proper weights according to the standard in the Exchequer (*as directed by* 5 *Geo.* 4. *c.* 74), for the use of the parish, &c., to be deposited in the custody of the person or persons so to be appointed; and the justices in the respective *petty* sessions are authorized to order and direct the costs and charges of procuring such weights, and the recompense and satisfaction to be allowed to such examiner or examiners for his or their time and trouble in the execution of such office within the parish, &c. to be paid out of the poor's rate. *Ibid. s.* 5.

Examiners, when directed by the justices, to enter shops, &c. and try scales, weights, &c.

1971. The person or persons so appointed are required (having been first sworn duly and faithfully to execute the office) as often as the justices shall direct, in the day time *to enter into the shop, mill, house, outhouses, and other premises near such shop, &c., and into the stall or standing place* of any person

who sells by retail and weight any wares, provisions, goods, or chattels whatsoever, and there to search for, view, and examine all weights and balances in such shop, &c., and to seize any weight or weights not being according to the standard in the Exchequer, or any false or unequal balance or balances which on any such search be found therein, and to detain the same, to be produced before the justices in *petty* sessions aforesaid, upon the hearing of the information or informations after mentioned. 37 *Geo.* 3. *c.* 143. *s.* 2.

Penalty for false balances, weights, &c.

1972. The person in whose shop, &c. any such defective weight or weights, or any false or unequal balance or balances shall be found (*against whom for such offence or offences an information or informations is or are hereby directed to be preferred*), shall upon conviction thereof in petty sessions as aforesaid, upon view or confession, or on the oath of one or more credible witness or witnesses, forfeit and pay for any offence any sum not exceeding 20*s.*, nor less than 5*s.*, as the justices shall order and adjudge, together with the costs and charges attending the conviction; such forfeiture, together with the costs, to be levied by warrant under the hands and seals of the said justices, by distress and sale of so much of the goods and chattels of the offender as shall be sufficient to pay the penalty and the expenses of the distress. *Ibid.*

False weights to be broken.

1973. On the conviction of the offender, the justices shall cause such defective weight or weights, or other false or unequal balance or balances to be forthwith broken and rendered useless, and the materials thereof to be sold, and the money arising from the sale, together with the amount of the forfeiture or forfeitures, to be paid to the treasurer of the county, riding, or division.

Obstructing inspectors, or refusing to produce weights, &c.

1974. Wilfully obstructing, hindering, resisting, or in any wise opposing such inspector or inspectors, to view and examine such weights and balances in the due execution of his office; or if any person selling or retailing by weight, shall refuse to produce his weights and balances to be examined, he shall forfeit for every offence, on being duly convicted on

oath before any *one* or more justices of the peace, any sum not exceeding 40*s.* nor less than 5*s.*, as the convicting justice or justices shall adjudge. 35 *Geo.* 3. *c.* 102. *s.* 3.

MEASURES.

Majority of inhabitants may nominate five examiners.

1975. If the majority of the inhabitants of any parish, township, or place, shall be desirous that any person or persons shall be specially appointed to examine *the measures* within such parish, &c. they may (*at a vestry to be duly held for that purpose*) nominate five or more substantial householders to be approved of and appointed by the justices in *petty* sessions, with the same powers and authorities as mentioned in *pl.* 1971, *p.* 486, *ante.* 55 *Geo.* 3. *c.* 43. *s.* 7.

No appointment to be made until measures procured, &c.

1976. But no such appointment shall be made until the inhabitants shall have procured the proper measures duly marked according to the standard in the Exchequer, for the use of such parish, &c. to be deposited in the custody of the examiners.

Expenses to be paid out of the poor's rates.

1977. And the justices in petty sessions may order and direct the costs and charges of procuring such measures, and the recompense and satisfaction to be allowed to the examiners for their trouble, to be paid out of the poor's rate. *Ibid.* *s.* 8.

CONSTABLES.

The Appointment of Constables.

Who are qualified to serve the office of constable.

1978. No one is qualified to be a constable who is not an inhabitant of the place for which he is to serve. Every inhabitant housekeeper of full age is liable to serve; but he ought to be of the *abler* sort of parishioners. If an ignorant or poor person is chosen, he may, upon application by the inhabitants to two justices, be discharged, and an *abler*

person appointed in his place by the justices. *Dalton's Poor Laws, c.* 28.

1979. Persons born out of *England, Scotland,* or *Ireland,* or the dominions thereof (*except born of English parents*), are incapable of serving *any office* of trust *civil** or military, though naturalized or denized. 12 *Will.* 3. *c.* 2. 1 *Geo.* 1. *c.* 4. Who are incapable of serving.

1980. The president of the commonalty and fellowship of the science of physic in *London,* and the commons and fellows thereof, are exempted from being chosen constable and from serving on juries within the *city of London* and the suburbs. 32 *Hen.* 2. *c.* 4. 6 *Geo.* 4. *c.* 50. *s.* 2. † Physicians in London.

1981. This statute not extending to physicians practising in any other places, it is probable if a practising physician was chosen constable of a place wherein there were other sufficient persons to execute the office, he would find relief by applying to the court of King's Bench. (*See* 1 *and* 2 *Keeble's Reports,* 439. 578). Physicians.

1982. But where there is a custom that the inhabitants shall serve the office of constable by turns, it seems that a practising physician being chosen constable in pursuance of such custom, has no remedy for his discharge. 2 *Hawkins, Pleas of the Crown, c.* 10. *s.* 41, (*edit. of* 1771). Where the custom is that the inhabitants serve by turns.

1983. The warden and fellows of surgeons enfranchised in the *city of London,* and all barber surgeons not exceeding the number of twelve, duly admitted and approved, shall be discharged from serving the office of constable. 5 *Hen.* 8. *c.* 6. Warden and fellows of the surgeons' company and barber surgeons.

1984. All freemen of the corporation of surgeons in *London,* as long as they shall exercise the art Freemen of the corporation of surgeons.

---

* It has been determined that such persons are ineligible to serve the office of constable. *Burrows' Reports,* 2790.

† Intituled, "An act for consolidating and amending the laws relative to jurors and juries," (passed 22d *June,* 1825).

and science of surgery, shall be exempt from serving the office of constable and all other parish offices, and from serving on juries. 18 *Geo.* 2. *c.* 15. 6 *Geo.* 4. *c.* 50. *s.* 2.

Surgeons.

1985. All surgeons are allowed the same privilege by the equitable construction of the statutes, and the general custom of the realm. *Rex v. Pond, Comyn's Digest*, 312.

A member of the company of barber surgeons not exempt.

1986. But it has recently been held, that a member of the *Barber's* company in the city of *London*, is not exempt from serving the office of constable. *Rex v. Chapple, Sittings after Michaelmas Term*, 1811. 3 *Campbell's Nisi Prius Reports.*

Freemen of the Apothecaries company in London, &c. All practising apothecaries who have served seven years.

1987. Freemen of the Apothecaries' company in *London*, and within *seven* miles thereof, and also all persons practising as apothecaries in the country who have served seven years apprenticeship, shall be exempted from serving the office of constable. 6 *and* 7 *W. c.* 4.

The ancient office of constables in the two universities.

1988. The ancient *officers* of any of the *constables* in the two universities are also exempted from serving this office; it has been adjudged that a college barber of Oxford, though not residing within the walls of the college, was ineligible to serve the office of constable. *Douglass's Reports, edit.* 1813.

Attorneys and officers of the court of Westminster.

1989. Sworn attorneys and other officers of the courts at *Westminster*, shall not be liable to serve the office of constable, and this privilege extends to such persons not only where there is no special custom relating to the election of constables, but also where they are chosen by a particular custom. 2 *Hawkins' Pleas of the Crown, c.* 10. *s.* 39, (*edit. of* 1771.)

Barristers.

1990. Practising barristers at law, and servants of members of parliament, have the like privilege. *Ibid.*

Aldermen of London.

1991. Also an alderman of *London* is not compellable to serve as constable. 2 *Hawkins' Pleas of the Crown, c.* 10. *s.* 40. (*edit. of* 1771).

A captain of the guards.

1992. It has been held, that a captain in the guards, being presented to serve as constable, in pursuance of a custom in respect of his lands in a town, cannot claim this privilege; for although he

is bound by his office to personal attendance on the king's person, yet such office being of late instituted, shall not prevail against an ancient custom. 2 *Hawkins' Pleas of the Crown, c.* 10. *s.* 41. (*ed. of* 1771).

1993. Yet if such an officer, or a gentleman of quality who hath no such office, or a practising physician, is chosen constable of a town where there are other sufficient persons to execute the office, and no *special custom* to the contrary, probably he would be released by application to the Court of King's Bench; for even a custom cannot exempt proper persons from serving the office of constable, where there are no *other* sufficient persons besides them to execute it. *But these points are unsettled. Ibid.* Where there is no special custom.

1994. A seafaring man serving the office of headborough, is not exempted from being impressed. *Ex parte Fox*, 5 *Term Reports*, 276. Seafaring men.

1995. No serjeant, corporal, drummer, nor private man serving in the militia, during the time of such service shall not be liable to serve the office of constable. 42 *Geo.* 3. *c.* 90. *s.* 174. Militia men.

1996. No officer, non-commissioned officer, or effective member of any yeomanry corps, or volunteer cavalry, during enrolment, shall be compellable to serve the office of constable in the parish to which he belongs. 57 *Geo.* 3. *c.* 44. *s.* 3. Yeoman cavalry.

1997. Teachers and preachers in holy orders, and teachers, preachers, and ministers of any congregation, who shall take the oaths, make and subscribe the declaration, and subscribe such of the articles of the church of England as the act requires, shall be exempt from being chosen to serve any parish office. 1 *W. and M. c.* 18.* *s.* 11. Ministers in holy orders, and deputy ministers.

---

* Intituled "An act for exempting their majesty's protestant subjects dissenting from the church of England from the penalties of certain laws (usually called the toleration act). This act, in *Rex v. Larwood*, 1 *Lord Raymond's Reports*, was, upon very

Protestant dissenting ministers.

1998. Any teacher or preacher in any congregation or assembly for religious worship, of protestants, who shall employ himself solely in the duties of such teacher, &c. and not follow any trade or employment for his livelihood except that of a *schoolmaster*, and who shall produce a certificate of a justice of the peace of his having taken and subscribed the oaths and declarations specified in the 19 *Geo.* 3. *c.* 44. shall be exempt from serving the office of constable, and other civil services and offices mentioned in the 1 *W. c.* 18. *s.* 7., and from being balloted to serve, and from serving in the militia or local militia, in any part of the *united kingdom*. 52 *Geo.* 3. *c.* 155.*

The prosecutor of a felon.

1999. The prosecutor of a felon to conviction shall, having a certificate under the hand of the judge, and it being enrolled by the clerk of the peace †, be discharged from the office of constable. 10 *and* 11 *W. c.* 23. ‡ *s.* 2. 3.

---

unsatisfactory reasons, held to be a private act; but the 19 *Geo.* 3. *c.* 44. *s.* 4. declares it to be a public act. *See Evans v. Harrison*, 6 *Bro. P. C.* 181. *cited Cowper's Reports*, 392. *Wilmot's Reports, p.* 130.

* Intituled, "An act to repeal certain acts, and amend other acts, relating to religious worship and assemblies, and persons teaching or preaching therein." (*Passed 29th July*, 1812).

† But where a parish is part of a manor, the certificate does not exempt from offices relating to the manor. *Rex v. Derbyshire*, 2 *Burrows' Reports*, 1182. But where a parish consists of several townships, the exemption extends to the offices of the respective townships. *Morseley v. Stonehouse*, 7 *East's Reports*, 174.

‡ Intituled "An act for the better apprehending, prosecuting, and punishing of felons that commit burglary, housebreaking, or robbery in shops, ware-

2000. As the office of constable is wholly *ministerial*, and no way *judicial*, he may appoint a deputy to execute all warrants directed to him, when he is prevented doing it himself by reason of sickness, absence, or other sufficient cause; but it is not settled that a constable can make a deputy without some *special* cause. 2 *Hawkins' Pleas of the Crown, c.* 10. *s.* 36. Constable may appoint a deputy.

2001. The high constable, having power by the mutiny act to billet soldiers, may appoint a deputy to this particular *ministerial* act: and it therefore appears a constable may appoint a deputy to do *ministerial acts. Medhurst v. Wate,* 3 *Burrows' Reports,* 1259. *Rex v. the Inhabitants of Hope Mansell, Caldecott's Reports of Settlement Cases,* 252. *Rex v. Clarke,* 1 *Term Reports,* 682. So may the high constable.

2002. But the superior must be answerable for his deputy, unless the deputy is duly allowed and sworn; in which case he is constable. *Wood's Institute, b.* 1. *c.* 7. But the superior must answer for his deputy.

2003. Where a person is appointed constable, and he procures a deputy to serve for him, who is approved of by the inhabitants, and sworn in at the leet, the liability of the principal is at an end; and he cannot afterwards be called upon to serve the office; and if the substitute absconds, and does not serve, the principal is nevertheless discharged. *Umderhill v. Witts,* 3 *Espinasse's Nisi Prius Reports,* 56. Liability of the principal at an end, after deputy is sworn in.

2004. If a dissenter from the church of *England* is chosen either high or petty constable, and he scruples to take the office upon him, in regard to the oaths, or any other matter required to be done in respect of the office, he may execute it by deputy, to be provided by him, and allowed by such persons, and in such manner, as such officer should by law have been allowed. 1 *W. c.* 18. *s.* 7. A dissenter may serve by deputy.

---

houses, coach-houses, or stables, or that steal horses."

Roman catholics.

2005. Roman catholics, on their taking and subscribing the oath and declaration required by this act, are entitled to the like privileges. 31 *Geo.* 3. *c.* 32.* *s.* 7.

Persons holding public offices.

2006. Persons holding public offices which require their daily *personal* attendance are also exempted. But they are not exempted if their duty is of a *ministerial kind* only, which may be performed by deputy. *Espinasse's Nisi Prius Reports,* 359.

Aged persons in Westminster.

2007. Persons residing within the city or liberty of Westminster, of the age of *sixty-three* or *upwards*, are not compellable to serve the office of constable, or to procure any deputy. 31 *Geo.* 2. *c.* 17.

Alehouse keeper not to be constable.

2008. No person who keeps an alehouse ought to be constable. *Holt, C. J.* 6 *Modern Reports,* 41.

The king has a discretionary power to exempt any one from serving the office of constable.

2009. And lastly, besides the exemptions abovementioned, the king has a discretionary power to exempt any persons from serving the office of constable, or any other office under the crown. But these grants of exemption ought to be construed *strictly;* and unless they are made in the most *explicit* terms, they ought not to be allowed; and not even then, unless there is a sufficient number of persons left to serve the office. *Ashhurst, J.* 1 *Term Reports,* 679. *See also Douglas's Reports. Croke's Reports in the time of Charles,* 260.

A younger brother of the Trinity-house.

2010. A younger brother of the Trinity-house is *not* exempt from serving the office of constable by virtue of the charters of that establishment. 1 *Term Reports,* 679.

---

* Intituled "An act to relieve, upon conditions and other restrictions, the persons therein described from certain penalties and disabilities to which papists, or persons professing the popish religion, are by law subject."

Choosing and Swearing Constables.

How the constable is to be chosen.

2011. Anciently, the high constables as well as the petty constables, were admitted and sworn by the feudal lord or his steward, in the leet; but where there was no such lord, the sheriff, in his *torn*, had the swearing and placing them in their office. 1 *Bacon's Abridgment*, 439.

High constables usually chosen at the quarter sessions.

2012. The high constables are now usually chosen either at the quarter sessions, or, if *out* of sessions, by a majority of the justices of the division; and they are sworn either at the sessions or by warrant from the sessions. *Dalton's Justice*, 28.

Petty constable by the homage in the court leet, or sheriff.

2013. Petty constables may now, of common right, be chosen by the *homage* or jury in the court leet; or if there is no court leet, then by the sheriff, in his *torn*. 2 *Salkeld*, 502. 1 *Lord Raymond's Reports*, 70.

Justices of the peace to swear-in the constables.

2014. Justices of the peace have, ever since the institution of their office, taken upon themselves not only to swear the petty constables which have been chosen at the *leet*, but also to *nominate* and *swear* those who have *not been so chosen*, on the neglect of the sheriffs or lords to hold their courts, or to take care that such officers are appointed in them. And the justices may *displace* constables which have been chosen and sworn by them, for good cause. 2 *Hawkins' Pleas of the Crown*, *c.* 10. *s.* 49.

When constables are to be chosen by the vestry.

2015. It having been settled that the election of constables is in the people, it is usual, in parishes in which the lords of the manors do not hold *court leets*, for the petty constables to be chosen by the inhabitants in vestry, and sworn in before a justice of the peace. *See Rex v. Franchard*, 2 *Strange's Reports*, 1149.

Justices may appoint constables in privileged places.

2016. It has been also held that the justices of the peace may appoint constables even in privileged places, and where there has been none for fifty years before, as in the *Tower Hamlets*, they choose *five* where there had formerly been but one; and it was

determined that the appointment was lawful; for justices of the peace may choose constables *in all cases of necessity.* 1 *Bacon's Abridgement,* 439. 2 *Hawkins' Pleas of the Crown, c.* 10. *s.* 49. 6 *Term Reports,* 228.

Justices may remove constables if unfit.

2017. And they may interfere and remove constables, not only where the *leet* has neglected to choose them, but where unfit persons have been chosen. *Dalton's Justice,* 28.

If a constable dies or removes from the parish.

2018. Justices of the peace had power to nominate and swear constables, in the default of the *leet,* or *torn,* before the 13 *and* 14 *Car.* 2. *c.* 12. *s.* 15., and therefore that they have such authority in some cases not mentioned in that statute, which enacts "that if a constable shall die or go out of the parish, any two justices may make and swear a new one, until the lord shall hold a leet, or till the next quarter sessions, who shall approve the officer so made and sworn, or appoint another; and that, if any officer shall continue above a year in his office, the justices, in their quarter sessions, may discharge him and put in another, till the lord shall hold a court leet." 2 *Hawkins' Pleas of the Crown, c.* 10. *s.* 50. *Dalton's Justice, s.* 5.

May be sworn at the sessions.

2019. A person duly chosen at the *leet* may be sworn in by the justices in sessions, though he is rejected by the steward of the leet. 2 *Sir William Jones's Reports,* 212.

If a constable is present at the leet, he should be sworn immediately.

2020. If a constable is present at the leet at the time of his being chosen, he ought to be sworn immediately; but if the court is first adjourned, the steward is to issue out a precept, commanding him to take the oath before one of his majesty's justices of the peace. 1 *Lord Raymond's Reports,* 70.

Constables in towns corporate.

2021. Constables may be appointed in towns corporate by charter justices. It was held that the act of the 13 *Car.* 2. *c.* 18. extended to *charter* justices, as well as to justices having commissions immediate from the crown. *Wheatherhead v. Drewery and others,* 11 *East's Reports,* 168. *Rex v. J. Green,* 6 *Term Reports,* 228.

2022. The Court of King's Bench hath power by *mandamus* to compel the court of sessions or judge to swear a constable duly chosen. 2 *Hawkins' Pleas of the Crown, c.* 10. *s.* 47. The court of King's Bench will compel the sessions, &c. to swear a constable.

2023. Where, in an application for a *quo warranto* against a constable, the affidavits in support of the rule stated, that, for fifty years back, and as long as the deponents could recollect, there had been a custom in the town to elect a constable in a particular mode, but did not expressly state that they believed such custom to be *immemorial,* it was held that it was not sufficient. *Rex v. Lane, H.* 2 *and* 3 *Geo.* 4. 5 *Barnewall and Alderson's Reports,* 488. Where there is a custom to elect a constable in a particular mode.

2024. If a constable refuses to be sworn after he is chosen, a justice of the peace may bind him over to the assizes or sessions (*there to be indicted.*) *Dalton's Justice,* 28. *Rex v. Lane,* 2 *Strange's Reports,* 920. If constable refuses to be sworn.

2025. There can be no commitment, but only indictment, upon the refusal; and if an indictment found against him, to assess a good fine upon him, and then commit him for the same. *Crawley's Case, Croke's Reports in the time of Charles,* 567. There can be no commitment on refusal to be sworn.

2026. The sheriff or steward of the *leet* cannot lawfully commit constables for refusal; but if the party is present, he may be fined; and if absent, and has a certain time and place appointed him by the sheriff or steward for taking the oath before a justice of the peace, and has also notice of the appointment, and be presented at the next court for having refused to take it accordingly, he may be amerced; but, in either case, he may be indicted at the assizes or sessions. 2 *Hawkins' Pleas of the Crown, c.* 10. *s.* 46. Constable not to be committed for refusal, but fined.

2027. High constables are to take the oaths of allegiance, supremacy, and abjuration. 1 *Geo. St.* 2. *c.* 13. Oaths by high constable.

2028. Petty constables are not to take such oaths, but only the oath of office, of which there is *no particular form* prescribed by statute. *Ibid.* Oaths by petty constables.

2029. In the city of London, there are *day* and *night* constables; the *day* constables are chosen by Constables in the city of London.

the inhabitants of each precinct yearly, on *St. Thomas's Day*, and afterwards confirmed or rejected by the court of *Wardmote;* and if approved of, they are sworn in at a Court of Aldermen on the next day after *Twelfth* Day. The number of *night* constables is ordered by the Court of Common Council, on the *first* day of October.

The Power of the Constable as a Conservator of the Peace.

Constables are conservators of the peace, and bound to suppress disturbances, &c.

2030. High constables, as well as the petty constables, are by the common law conservators of the peace, and therefore a constable is bound to suppress an affray or disturbance, or an assault *in his presence*, and he is bound at his peril to use his utmost endeavours for that purpose, not only by himself alone, but he is empowered to demand such assistance from others as he may stand in need of, and which they are compelled to afford him, under pain of fine and imprisonment. 3 *Institute*, 158. *Dalton's Justice*, *c.* 8.

Power of constables to commit to the stocks, or other safe custody.

2231. If a constable sees persons engaged in an affray, or on the point of entering into one, or where any one shall threaten to kill, beat, or hurt another, or shall be making ready to break the peace, he may either commit him to the stocks, or other safe custody of his own authority, for a reasonable time till his heat is over, and afterwards carry him before a justice of the peace, or to gaol, until he shall find sureties for the peace. *Croke's Reports in the time of Elizabeth*, 375. 2 *Hawkins's Pleas of the Crown*, 23.

Of the Expenses incident to the Office of Constable in doing the Business of the Parish.

Expenses of the office of constable are to be paid by a rate.

2032. A rate may be made to reimburse constables, headboroughs, or tithing-men, expenses occa-

sioned by removing or relieving the poor. 13 *and* 14 *Car.* 2. *c.* 18.

2033. And overseers are indictable for refusing to make such rate. *Rex v. Bonlaw, Salkeld's Reports,* 609. 1 *Bott,* 332.

Overseers refusing to make such rate.

2034. Every constable, headborough, or tithingman, *shall every three months, and within* 14 *days after he shall go out of office,* deliver to the overseers of the poor of the parish, township, or place, for the time being, a just account in writing, fairly entered in a book to be kept for that purpose, and signed by him, of all sums expended on account of the parish, &c., *in all cases not hitherto provided for,* and also all sums received by him on the account of the parish, &c., and the overseers or their successors shall, within 14 days after the account shall be so delivered, lay the same before the vestry, for the approbation of the parishioners; and in case the said account shall be approved of, the overseers are authorised to pay the same out of the poor rates. 18 *Geo.* 3. *c.* 19. *s.* 4. (*See pl.* 2046, *post*).

Constables, &c. every three months, and within fourteen days after the expiration of his office, to deliver an account to the parish.

2035. In case the account, or any part thereof, shall be disallowed, the overseer shall deliver the book back to the constable, &c., which may be produced by the constable, &c. before *any* justice of the peace, (giving reasonable notice thereof to the overseers), who may examine the same, and hear and determine any objection that shall be made to the account, and settle the sum which may appear due on the account, which the overseers are to pay out of the poor rates. 18 *Geo.* 3. *c.* 19. *s.* 4.

If the account is disallowed, any justice may examine it, and settle what shall be done to the constable.

2036. If the overseers shall find that the parish, &c. is aggrieved by any neglect, act, or thing done or omitted by the constable, &c., or by any justice of the peace, or shall have any material objection to such account, or any part thereof, or to the determination of the justice, they may (*in case the majority of the overseers concur in it*) appeal to the *next* general quarter sessions of the peace for the county, riding, division, city, town, corporate franchise, or liberty, where the parish, township, or place lies. *Ibid. s.* 5.

Overseers may appeal against the act of the constable, or the justice of the peace, to the next sessions.

In corporations not having four justices.

2037. In corporations which have not four justices, the overseers may appeal to the sessions of the county. *Ibid. s.* 6. *Rex v. Justices of Lancashire, E.* 3 *Geo.* 4. 5 *Barnewall and Alderson's Reports,* 755.

Expenses of a constable for preventing an assault on himself, not to be paid out of poor rate.

2038. The expenses of a constable incurred in preventing an assault committed on him in the execution of his duty, cannot be paid by the overseers out of the poor rate, under the 18 *Geo.* 3. *c.* 19. *s.* 4. (*pl.* 2034, *above.*) *Rex v. Bird and others,* 59 *Geo.* 3. 2 *Barnewall and Alderson's Reports,* 522.

Nor any moneys but what are expended in doing the business of his township.

2039. A constable apprehended an offender for a misdemeanor committed in his presence in a place of religious worship, and carried him before a magistrate, who bound him over by recognizance to prosecute for the offence. It was held, that the expenses of such a prosecution were not moneys expended by him in doing the business of his township, and that he could not charge them in his accounts, under the 18 *Geo.* 3. *c.* 19. *s.* 4. (*pl.* 2034, *above.*) *Rex v. Seville and others, M.* 2 *Geo.* 4. 5 *Barnewall and Alderson's Reports,* 180.

Constables may be removed by the party appointing them.

2040. In such manner as constables are to be chosen, in the same manner and by the like authority they may be removed. *Dalton's Justice, c.* 28. *p.* 63.

May be removed by the sheriff or steward of the leet.

2041. The sheriff or steward of the leet, having power to place a constable in his office, has a like power of removing him. 2 *Hawkins's Pleas of the Crown, c.* 10. *s.* 38.

And also by justices of the peace.

2042. And so have the justices of the peace the like power for good cause, to displace all such constables as have been chosen or sworn by them. *Ibid.*

The sessions may discharge a constable who has been above a year in his office.

2043. If a constable shall continue above a year in his office, the sessions may discharge him, and put another in his place till the lord shall hold a *leet.* 13 *and* 14 *Car. c.* 12. *s.* 15.

Constables and all parish officers neglecting duty, or disobeying a justice's warrant.

2044. Constables, overseers of the poor, or other peace or parish officers, are liable to be fined for neglect of duty and disobedience of the lawful warrants or orders of justices, by the justices as-

sembled either in special or petty sessions of the peace. 33 *Geo.* 3. *c.* 55*.

Protection to constables in their office.

2045. Constables are protected in the various duties of their office, by the statute of 7 *Jac.* 1. *c.* 5. 21 *Jac.* 1. *c.* 12. 24 *Geo.* 2. *c.* 44. *And see the following cases: Paxton v. Williams and others,* 2 *Barnewall and Alderson's Reports,* 331. *Theobald v. Crichmore,* 1 *Barnewall and Alderson,* 227. *and Jones v. Hall,* 3 *East's Reports,* 445.

Constables entitled to fees in cases where their parish is concerned.

2046. Parish constables exercising their duty in cases in which the parish is concerned, are entitled to certain fees or allowances, to be paid to them by the overseers. The charges are in many parishes left to the discretion of the constables, but subject to the control of the justice of the peace. The following is a list of fees usually allowed to the constables of most of the parishes in England, *(see pl.* 2034, *ante).*

The Constable's Table of Fees.

Table of fees.

	£.	*s.*	*d.*
For the oath of office, - -	0	1	0
For the service of any warrant at the instance of the parish, (if served in the parish), - - -	0	1	0
For every mile beyond the limits of the parish, - - -	0	0	6
If beyond the distance of five miles, and not exceeding a day's journey, -	0	5	0
For every journey of one day or more, per day, including all expenses, -	0	10	0
For attending the bench of justices at their petty sessions, - -	0	1	6

* Intituled, "An act to authorize justices of the peace to impose fines upon constables, overseers, and other peace or parish officers, for neglect of duty, and on masters of apprentices for ill usage of such their apprentices, and also to make provision for the execution of warrants of distress granted by magistrates." (Passed 21st June, 1793.)

	£.	s.	d.
The like at their general or quarter sessions, (including expenses), -	0	10	0
Attending the coroner with notice of a death, - - - - -	0	4	6
Summoning a jury, and attending the inquisition, - - -	0	6	8
Expenses of the jury, - -	0	10	0
Billeting of soldiers, - -	0	0	0
Pressing of waggons for soldiers' baggage,	0	0	0
Attending on a search night, or at a fair in the parish, - - - -	0	2	0
Attending to see that shops and public houses are shut during divine service on Sundays, - - -	0	0	0
Attending on the day of election of a member of parliament, *unless paid by the candidate,* - - -	0	5	0
For conveying a felon or other prisoner to gaol, when the parish is liable to pay the expenses, (including expenses),	0	10	0
Making a list of jurors to return to the sessions, - - - -	0	0	0
Verifying the same, - -	0	1	0
Making out a list of persons to serve in the militia, or any other military force,	1	1	0
Verifying the same, - -	0	1	0
Summoning any person balloted in the militia, &c. - - -	0	1	0
Service of any poor's rate summons,	0	0	4
Attending as a peace officer within the parish on any public occasion, or at an execution of any sentence on any criminal, - - - - -	0	2	6

Expenses allowed by the court.

2047. The court before which any person shall be prosecuted for felony, at the request of the prosecutor, or any other person who shall appear on recognizance or subpœna to prosecute or give evidence in all cases of felony, and in certain cases of misdemeanour, may order the payment of expenses to the prosecutor and witnesses, not only what they

shall have incurred by preferring the bill of indictment, but also what they shall have severally incurred in attending before the examining magistrate and grand jury, and also for their loss of time, although no bill of indictment is preferred. The amount of expenses of attending before the examining magistrate, and compensation for trouble and loss of time, to be ascertained by the certificate of such magistrate, granted before the trial or attendance in court, if the magistrate thinks fit to grant it. The amount of all other expenses to be ascertained by the proper officer of the court. 7 *Geo.* 4. *c.* 64. *s.* 22, 23.

Magistrate to certify expenses incurred before him.

Of the Parish Clerk.

2048. Originally parish clerks were *clerks* in holy orders, for the purpose of assisting the officiating minister at the altar, and in the celebration of divine worship; but since the reformation this practice has been discontinued, though the *parish clerk* is still generally nominated by the incumbent, who is to signify such nomination to the parishioners on the next *Sunday* following, either before or after divine service. But by custom in some parishes, the parish clerk is chosen by the parishioners in vestry, held for that purpose, and where this custom prevails it is considered as a *temporal* or *civil* right in the parish, and the archdeacon is compellable by *mandamus* to confirm the appointment, by swearing the party into office. *Croke's Reports in the Time of Charles,* 589. 2 *Rolle's Abridgement,* 424.

Origin of parish clerk.

Appointed by the incumbent.

Chosen by the parishioners in vestry, by custom.

Archdeacon compellable to confirm the appointment.

2049. Whether he is appointed by the incumbent or the parishioners, he is regarded by the common law as a *lay* officer, and therefore cannot be removed (though he may be censured) by the ordinary. *Ibid.*

The parish clerk is a lay officer.

2050. The parish clerk is usually licensed by the ordinary, before he enters upon his office; and it has been held, that he may sue in the ecclesiastical court for *his salary,* or other dues and profits. *Shaw's Poor Laws,* 50.

Licensed by the ordinary.

2051. He must be at least twenty years of age when chosen, and able to read and write, and should

How he should be qualified.

have a competent knowledge in the practice of *psalmody*, that he may be able to join the parishioners in that part of their devotion.

The duty of the parish clerk.

2052. The duty of the parish clerk is to make responses after the minister, in the time of divine service; to give out the psalms proper for the day; to assist the officiating minister in marrying, baptizing, and burying the parishioners, and in all other religious offices and ceremonies of the church.

Parish clerk in the city of London incorporated.

2053. By a charter of *Henry the Third* to the city of *London*, parish clerks in and about *London* were incorporated and authorised to make bye laws and ordinances for their own regulation; and by the statute of 10 *Anne*, (for the building of fifty new churches within the bills of mortality), it is provided, "that the parish clerks of such new erected churches shall be members of the company or corporation of the clerks of the parish churches within the city and suburbs, and liberties of *London*, *Westminster*, and *Southwark*, and the fifteen outparishes named in the letters patent of the said corporation, and shall make weekly and yearly accounts of the churchings and burials happening in their parishes, and shall in all respects be subject to the rules and orders of the said company."

Of the Parish Sexton.

The appointment of sexton by the vestry.

2054. The sexton, who is an inferior parish officer, is chosen by the parishioners. His duty is to attend upon, and assist the churchwardens in their office, as far as respects the affairs of the church. He is to keep the church and pews cleanly swept and aired, to make graves and open vaults, to provide (under the direction of the churchwardens) candles, &c. for lighting the church, bread and wine, and other necessaries, for the communion, and water for baptisms, to attend church during divine service, to open the doors of the pews for the parishioners, and prevent disturbances.

The duty of sexton.

His salary.

2055. The sexton's salary is paid by the church-

wardens, and his fees are settled by the inhabitants in vestry. 1 *Term Reports*, 20.

2056. If a sexton is removed from his office without sufficient cause, a *mandamus* will lie from the court of K. B. for his restitution. 2 *Leonard's Reports*, 18. If removed without sufficient cause.

2057. Indictment lies against a parish clerk, for deceiving a clergyman, to make a false entry of the due publication of banns, when none have been published, by 52 *Geo.* 3. *c.* 146. *s.* 14, 4 *Geo.* 4. *c.* 76. *s.* 28.; and the penalty by these statutes is transportation for life. The penalty for the same offence, is felony without benefit of clergy, by 26 *Geo.* 2. *c.* 33. *s.* 16. Parish clerk or clergyman making false entry of publication of banns.

2058. The like punishment against a parish clerk for making a false entry of the publication of banns. The like of parish clerk.

Of the Parish Beadle.

2059. The parish beadle is the messenger and servant of the vestry, and is appointed by the parishioners in vestry assembled. His ordinary duty is, to give notice to the parishioners of all the vestry meetings appointed by the churchwardens or overseers, to attend such meetings, and execute all its orders. The duty of the parish beadle.

2060. His other duty is to assist the churchwardens, overseers, and constables, in all their respective duties, when ordered, and generally to do and execute all the orders and business of the vestry, and of the parish officers. *Shaw's Poor Laws*, 60. Other duty.

2061. The beadle is generally nominated as a constable by the vestry, and sworn in by the magistrates as such. His appointment is during pleasure, and he may be dismissed for misconduct at any time by the parishioners in vestry assembled. Beadle is generally sworn in as constable.

statute 6 *Geo.* 4. *c.* 57. repeals that statute, but still makes the payment of the year's rent, but not by the party having the same, a condition precedent to the gaining of a settlement, and therefore where a person after the passing of the 59 *Geo.* 3. *c.* 50, hired a tenement of the annual value of 10*l.* and held it for more than a year, but died before a whole year's rent was paid, he was held to gain no settlement, although after his death, and after the passing of the 6 *Geo.* 4. *c.* 57, the rent was paid out of the money produced by the sale of his goods. *The King against the Inhabitants of Carshalton, M. T.* 7 *Geo.* 4. 5 *Barnewall and Cresswell*, 93.

A pauper held a house at the annual rent of 8*l.* from *Lady-day* to *Michaelmas* 1821, and a different house from *Michaelmas* 1821 to *Lady-day* 1822, at the annual rent of 9*l.*, and during the whole of that period he was the tenant of a garden at an annual rent of two guineas; but he had agreed with another person that they should share the expense and the profits arising from the cultivation of the garden, and that person paid him half the rent, but he paid the whole to the landlord. It was held that he did not gain a settlement, because he did not, during the whole year, as required by the 59 *Geo.* 3. *c.* 50, hold a house and occupy land, which together were of the annual value of 10*l.* *The King v. The Inhabitants of Tonbridge, M. T.* 7 *Geo.* 4. 6 *Barnewall and Cresswell*, 88.

A house of the annual value of 10*l.* was hired by A, at *Michaelmas* 1824, and he died three days before the year expired, but his corpse continued in the house after the expiration of the year, and after his death, his widow resided there and paid the year's rent. It was held, that A.'s widow and children did not gain any settlement. *The King v. The Inhabitants of Crayford, M. T.* 7 *Geo.* 4. 6 *Barnewall and Cresswell*, 68.

It is not necessary to the gaining a settlement by coming to reside, that the pauper should reside upon any part of the tenement. *The King v. The Church-*

wardens and Overseers of the Poor of Kenardington, M. T. 7 Geo. 4. 6 Barnewall and Cresswell, 70.

Settlement by Hiring and Service.

A hiring at 6*s.* a week for the winter, and 9*s.* a week for the summer, nothing being said as to the duration of the service, is not a yearly hiring. *The King v. The Inhabitants of Warminster, M. T. 7 Geo. 4. 6 Barnewall and Cresswell, 77.*

INDEX.

ALDERMEN of London
Exempt from serving the office of constable, 490
ALIEN
Disqualified from serving office of churchwarden, 31
APOTHECARY
Exempt from serving office of churchwarden, 31
constable, 490
APPRENTICE.
See title, "PARISH APPRENTICE."
APPRENTICESHIP.
See title, "SETTLEMENT BY APPRENTICESHIP."
Under certificate. See title, "SETTLEMENT BY CERTIFICATE."
ARMY,
Officers in, not liable to take parish apprentices, 8
A captain in the Guards exempt from serving the office of constable, 490
ATTORNEYS
Exempt from serving office of churchwarden, 31
constable, 490

BANKRUPTCY
Of master discharges apprentice, 29, 30
BARRISTER
Exempt from serving office of churchwarden, 31
BASTARDS.
Of securing the reputed Father and indemnifying the Parish.
Securing the reputed father, and indemnifying the parish, 139
If a woman die or marry before she is delivered, or if she miscarry, 141

BASTARDS.
Of securing the reputed Father, and indemnifying the Parish.
Upon the application of any one committed, the parish officers may be summoned to show cause why he should not be discharged, 141
If no order made in six weeks, ibid.
Justices not to send for a woman to be examined until one month after her delivery, 142
A child cannot be deemed illegitimate before born, ibid.
An unmarried woman with child to be deemed actually chargeable, ibid.
Such person refusing to be examined may be committed, ibid.
For proving chargeability, she may be compelled to answer questions, ibid.
In case of non-delivery, a person charged on oath with having gotten any single woman with child, may be immediately apprehended, &c. 143
Unless one justice shall certify the non-delivery or delivery, within one month before the sessions, 144
Unless two justices shall certify an order made, or that an order was not requisite, ibid.
The recognizance may be respited by the sessions, ibid.
Warrant of commitment to be in the disjunctive, ibid.
As to the Bond of Indemnity to the Parish.
Any justice may commit, unless security be given and recognizance entered into, ibid.
Securities given for indemnifying parishes to be vested in the overseers for the time being, 145
Inhabitants may be witnesses for or against their parishes, in order to receive charges of maintenance of bastard children, ibid.
Parish officers should consider whether a bond or an order is the most convenient for them to take, ibid.
An action on a bond to indemnify the parish must be brought in the names of the overseers for the time being, ibid.
Obligor on a bastardy bond becoming bankrupt, 146
A receipt for a promissory note may be given in evidence, (without having an agreement stamp), whether the consideration be prospective or executory, ibid.
Where the putative father pays a sum of money before the birth of the child, he may recover back what remains unexpended after the birth and death of the child, ibid.
The parties receiving the money cannot discharge themselves by paying it over, ibid.
Parish officers can recover no more than the money actually expended, ibid.

BASTARDS.
As to the Bond of Indemnity to the Parish.
Overseers can only take security to indemnify the parish, 146
Proceedings may be stayed, on payment of penalty and costs, 147
No more than the whole penalty of the bond can be recovered, ibid.
A voluntary bond conditioned for the payment of a sum certain every three months, is good, ibid.
A bond to pay a weekly sum, so long as the child is chargeable, is not illegal, ibid.
No order necessary to enable parish officers to recover on a bastardy bond, ibid.
The mother of a bastard child removing from the indemnified parish before the birth of the child, ibid.
As to the Order of Filiation.
Two justices to make order, as well for the punishment of the mother and reputed father, as for the relief of the parish, 148
After order made and default, commitment, except security is given to perform the order, and abide the order made at the sessions, ibid.
Order of sessions conclusive, ibid.
The sessions have original jurisdiction in cases of bastardy, 149
Power to make an order of filiation first given by 18 Eliz. c. 3. ibid.
Reputed father of bastard child chargeable with the expenses incident to the birth, and costs of apprehending and order of filiation, 150
For the maintenance of bastard children, ibid.
Reputed father not paying the sum ordered by the justice, and shall be due and unpaid, 151
The warrant of commitment must follow the words of the statute as near as possible, ibid.
Warrant of commitment of the putative father, ibid.
Where an order of filiation is made, and the time for appeal gone by, 152
Costs, charges, and expenses, subject to the discretion of the sessions, ibid.
The words in the 18 Eliz. "in or near the limits," are only directory, ibid.
If the child born in an extra-parochial place, 153
Order by five justices, ibid.
An order may be made at any time after the birth of the child, ibid.

BASTARDS.
As to the Order of Filiation.
The reputed father in prison, and no order made after six weeks, he may be discharged, 153
An order for filiating a child of a married woman, ibid.
The accused party must be summoned, ibid.
Summons may be by any justice, ibid.
by a third justice sufficient, 154
If putative father do not appear, the order will be valid, ibid.
But if he be unable to attend on account of illness, ibid.
The mother marrying before order made, may be committed, ibid.
No order can be made, unless the child be born alive, ib.
Order conclusive until reversed, ibid.
As to the power of the reputed father to take the child, and provide for it himself, ibid.
Justices have no power, until default in not obeying the order, 155
The sessions cannot commit a party against whom an order has been made, ibid.
Sessions must commit as two justices, ibid.
Sessions cannot order the reputed father to give security for the performance of an order, ibid.
If Sessions make such an order, ibid.
Constable letting putative father escape, ibid.
As to the Form of the Order of Filiation.
The examination of the woman must be by two justices, as well as the order, ibid.
Order made without complaint, bad, 156
may be made, on complaint of any person, ibid.
It should appear on the order, that the party was summoned, ibid.
If the order be made at sessions, ibid.
A guardian of the poor, though not legally appointed under stat. 22 Geo. 3. c. 83., may complain to a justice, ibid.
The examination of a married woman taken before a justice may be evidence on application to the sessions for an order, when the woman dies before the application, 157
An order may be made after the death of the woman, ibid.
The mother may be examined on oath as to the father, &c. ibid.
The order must be made on the oath of a witness, ibid.
The sex of the child, name of the parish, &c. to be mentioned in the order, ibid.

BASTARDS.
As to the Form of the Order of Filiation.
The parish to be indemnified, 157
The reputed father need not be present at the examination of the woman, 158
There must be an express adjudication in the order, ibid.
The order must state the child was born in the parish, ibid.
The adjudication, ibid.
Justices cannot adjudge a person not to be the putative father, ibid.
No provision in an order of filiation where a bastard settlement is in a different place than where born, ibid.
A gross sum may be ordered for defraying the expenses then incurred, or by-gone maintenance, 159
Adjudication as to birth of child, ibid.
Jurisdiction of justices thereon, ibid.
Order stating that the child was born in the parish, ibid.
An order can only be made to indemnify the parish, ibid.
An order to pay so much weekly is good, ibid.
Soldier in actual service may be committed for disobeying order, ibid.
And also for want of sureties, ibid.
As to the Appeal against the Order of Bastardy.
Any person aggrieved may appeal to the next sessions, 160
On giving ten days' notice, ibid.
No appeal to be heard without such notice, ibid.
Although no appeal made at sessions, ibid.
Reputed father must be in court when order made, ibid.
Appeal must be to the next sessions, ibid.
Where an order is quashed on the merits, ibid.
For want of form, 161.
The ten days' notice must be exclusive, ibid.
Entering into recognizance does not dispense with notice, ibid.
As to the Right of the reputed Father or the Mother to the Custody of the Child.
The putative father may take the child from the parish, 161
The mother is entitled to the custody of the child for nurture till seven years old, 162
If the putative father undertake to provide for it, ibid.
Where putative father agrees to indemnify the parish, ibid.
Parish officers may demand security to any extent, ibid.
If putative father take the child and provide for it, ibid.
Where the father promises to pay for the maintenance of child, ibid.
On appeal, the respondents to begin, ibid.
Where the father obtains possession of the child by fraud, 163

BASTARDS.

As to the Right of the reputed Father or the Mother to the Custody of the Child.

If the child be taken by stratagem or force, 163

The mother is entitled to the custody of her bastard child, ibid.

A putative father in poverty not to have the custody of his bastard child, after the age of seven years, ibid.

Mother of bastard children removing to another parish to live with her husband, ibid.

As to punishing the Mother.

The mother may be committed, 163

Two justices at a petty sessions may discharge a woman after six months, 164

The mother not to be committed until a month after her delivery, ibid.

But she cannot be committed if she discharge the parish of expenses, ibid.

The child cannot be committed with the woman, ibid.

As to the reputed Father or Mother running away.

The goods of a father or mother may be seized, and the rents, &c. received by the parish officers, 165

The sessions may order parish officers to sell so much as they think fit, ibid.

The churchwardens not to seize so much as they think proper, ibid.

Persons refusing or neglecting to maintain themselves and their families, and thereby becoming chargeable, &c. ibid.

CHARITABLE DONATIONS.

Registering and securing charitable Donations.

Deeds, &c. respecting charitable donations to be registered in the office of the clerk of the peace within ten calendar months, 482

Memorial to be registered, 483

Books for registering to be kept, ibid.

Notice in the Gazette, ibid.

Where charitable donations are not registered, a petition may be presented to the lord chancellor, 484

Proceedings not to decide any right or title, ibid.

Clerks of the peace to make searches, &c. ibid.

Further time allowed to register memorials, ibid.

Costs of registering may be allowed by the quarter sessions, ibid.

The provisions of this act do not extend to charitable donations secured on lands, &c. ibid.

Nor to royal foundations, ibid.

CHARITABLE DONATIONS.
Registering and securing charitable Donations.
Exchanging lands, 485
In cases of breach of trust, a petition to be presented to the lord chancellor, &c. ibid.
Appeal to the lords, ibid.
Where trustees neglect to appear to a petition, ibid.
Petition to be signed by the persons preferring it, and attested by the attorney for the petitioner, ibid.
Exemption from stamp duty, 486
CHIMNEY SWEEPER,
Apprentices to.
See title "PARISH APPRENTICES."
CHURCH RATE.
See title "CHURCHWARDENS."
CHURCHWARDENS,
Origin of Office of.
Churchwardens anciently church-reeves, 30
What the office was originally, ibid.
Persons exempt from serving Office of.
Peers of the realm, 31
Clergyman, ibid.
Roman catholic ministers, ibid.
Members of parliament, ibid.
Barristers, ibid.
Attornies, ibid.
Apothecaries, ibid.
Surgeons, ibid.
Dissenting teachers, ibid.
Persons who have prosecuted felons to conviction, ibid.
Certificates not now transferrable, ibid.
serving in the militia, ibid.
Aliens, ibid.
Papists, ibid.
Jews, ibid.
Persons convicted of felony, ibid.
Partners not resident in the parish are not exempted, ibid.
Of the electing and swearing-in of.
As to choosing them, ibid.
How chosen generally, 32
If a custom, ibid.
After chosen, to be sworn, ibid.
Oath of office, ibid.
Churchwardens a body corporate, ibid.
Continuance in office, ibid.
Their Duty as to Church Rates.
Cannot make a rate of themselves, 32

CHURCHWARDENS.
Their duty as to Church Rates.
How church rate to be made, 32
Mandamus will not lie to compel them to make a church rate, &c. ibid.
A rate cannot be made to reimburse them, 33
Two rates should be made, one for the fabric, the other for the ornaments, ibid.
For what purposes a church rate cannot be made, 35
How the occupier is chargeable, 33
Who is the occupier, ibid.
One church rate is now usually made, ibid.
To be made by a pound rate, ibid.
How to be raised, 35
Tenant to be rated, 33
Impropriator to contribute, 33
Quaker refusing to pay church rate, ibid.
Remedy to enforce payment of the rate, 34
Not to alter the jurisdiction of the ecclesiastical courts, &c. ibid.
If liability to pay rate be disputed, 34
If validity of rate be disputed, 35
As to repairing of Church and Seats therein.
Freehold of church, &c. in parish, 36
Churchwardens, with consent of ordinary, may grant seats, &c. ibid.
Parishioners compelled to repair body of church, ibid.
If out of repair, &c. the church may be pulled down and rebuilt, or repaired, as it may require, ibid.
As to the repairs of the chancel, ibid.
Seats may be claimed by prescription, 37
cannot be granted to a person and his heirs absolutely, ibid.
Faculty annexed to a messuage may be transferred, ibid.
CLERGYMAN
Exempt from serving office of churchwarden, 31
constable, 491
Liable to take parish apprentice, 8
CONSTABLES.
The Appointment of Constables.
Who are qualified to serve the office, 488
incapable of serving, 489
Physicians in London, ibid.
At other places, query, ibid.
Where the custom is that the inhabitants serve by turns, ibid.

CONSTABLES.
The Appointment of Constables.
Warden and fellows of the surgeons' company, and barber-surgeons, 489
Surgeons, 490
A member of the company of barber-surgeons not exempt, 490
Freemen of the apothecaries' company in London, &c. ibid.
Practising apothecaries who have served seven years, ibid.
Attorneys and officers of the courts of Westminster, ibid.
Barristers, ibid.
Aldermen of London, ibid.
Captains of the guards, ibid.
Where there is no special custom, 491
Seafaring men, ibid.
Militia-men, ibid.
Yeomanry cavalry, ibid.
Ministers in holy orders, &c. ibid.
Protestant dissenting minister, 492
Prosecutor of a felon, ibid.
Constable may appoint a deputy, 493
So may the high constable, ibid.
But the superior must answer for his deputy, ibid.
Liability of principal at an end after deputy is sworn in, ibid.
A dissenter may serve by deputy, ibid.
Roman catholics, 494
Persons holding public offices, ibid.
Aged persons in Westminster, ibid.
The king has a discretionary power to exempt any one from serving the office of constable, ibid.
A younger brother of the Trinity-house, ibid.
Choosing and swearing Constables.
How to be chosen, 495
High constables usually chosen at the quarter sessions, ibid.
Petty constable by the homage in the court leet or sheriff, ibid.
Justices to swear in the constables, ibid.
When they are to be chosen by the vestry, ibid.
Justices may appoint in privileged places, ibid.
remove constables if unfit, 496
If a constable die or remove from the parish, ibid.
May be sworn at the sessions, ibid.
If a constable be present at a leet he should be sworn immediately, ibid.

CONSTABLES.
Choosing and swearing Constables.
Constables in towns corporate, 496
The court of K. B. will compel the sessions, &c. to swear a constable, 497
Where there is a custom to elect a constable in a particular mode, ibid.
If constable refuse to be sworn, ibid.
There can be no commitment on refusal to be sworn, ibid.
But a fine, ibid.
Oaths by high constable, ibid.
petty constables, ibid.
Constables in London, ibid.
Constable's Power as a Conservator of the Peace, 498
Of the Expenses of his Office in doing the Business of the Parish.
A rate may be made to reimburse, 498
Overseers indictable for refusing to make such rate, 499
Constables, &c. to deliver accounts to the parish, ibid.
If the account be disallowed, any justice may examine it and settle what shall be due to the constables, 499
Overseers may appeal against the act of the constable or the justice to the next sessions, ibid.
In corporations not having four justices, 500
Expenses of a constable for preventing an assault on himself, not to be paid out of the poors' rate, ibid.
Nor any money but what is expended in doing the business of the township, ibid.
Constables may be removed by the party appointing them, ibid.
——— by the sheriff or steward of the leet, ibid.
And also by justices, ibid.
The sessions may discharge a constable who has been above a year in office, ibid.
Protection to constables, 501
Fees to constables, ibid.
Expenses allowed by the court, 502.
COUNTY RATE
To be paid out of the poors' rate, 404

DIFFERENCES,
Between master and apprentices. See tit. "PARISH APPRENTICES."
DISSENTING TEACHER
Exempt from serving office of churchwarden, 31

GAOL PASSES.
The justices in session to provide passes for the use of visiting justices of gaols, 211
Overseers to pay allowances mentioned in the pass, 212
The money to be repaid by the treasurer of the county, ibid.
Pass to be delivered up to the overseer of the last place mentioned therein, ibid.
Exemption, ibid.
Certificate, Route, and Description of discharged Prisoners under 5 Geo. 4. c. 85. s. 23.
Form, 213
Discharged prisoners may have a pass, ibid.
Certificate, ibid.
Directions for filling up the passes, 214
GENTLEMEN,
Liable to take parish apprentices, 8
GUARDIANS OF THE POOR,
under 22 Geo. 3. c. 80.
No guardian of the poor until this act was passed, 177
Parishes not having adopted the provisions of this act, not to be benefited by it, ibid.
Nomination of, 178
Salary, ibid.
The agreement to be entered with the clerk of the peace, 179
No parish more than ten miles from poor-house to unite, ibid.
Casual poor, ibid.
Public meetings, how to be held, ibid.
Power of, ibid.
Churchwardens to have power to make and collect poor rates, 180
Accounts to be examined, ibid.
Guardians to make an order on the churchwardens or overseers, for money necessary for the purposes of this act, ibid.
All notices to be given to the guardians, ibid.
Not to affect settlements, ibid.
Visitor to be appointed, 181
May appoint a deputy, ibid.
His duty, ibid.
Or his deputy free from serving parish offices, ibid.
A single parish may have a visitor, ibid.
Treasurer may be appointed, ibid.
Account to be made once a year, ibid.
Treasurer for the poor-house of a single parish, 182

HIGHWAYS.
Respecting the Special Sessions to be held for the Highways.
If the magistrates omit to appoint a surveyor at their special sessions, they are bound to appoint at a subsequent special sessions, 408
The magistrates are not bound to appoint surveyors from the list returned to them, ibid.
After serving one year, not liable again for three years, 409
Where no list is returned, &c., the justices shall appoint with a salary, ibid.
Neglect in making the list, and returning it when made, to the parties, ibid.
Justices of cities, &c., not to allow salaries to surveyors, except in certain instances, 410
Assistant surveyor, ibid.
Surveyor refusing to act, ibid.
A third person may be appointed to be assistant, ibid.
Bond given by the surveyor, ibid.
Duty of assistant surveyor, 411
Abstract of the act to be delivered to the surveyors, ibid.
Fee for the appointment and charge, ibid.
Appointment of special surveyors, ibid.
Surveyor dying, 412
Parish in general to repair, ibid.
bound to repair all highways within it, unless there is a prescription, ibid.
Where particular persons are to repair highways, ibid.
By a particular statute, ibid.
No agreement will exonerate a parish from repairing a highway, 413
Highways set out by commissioners, under an act for inclosing, ibid.
Highway lying in two parishes, ibid.
Each to repair certain parts, ibid.
Appeal, ibid.
No certiorari allowed, ibid.
Of Individuals who are bound to repair in respect of an Inclosure.
Repairing in respect of an inclosure, ibid.
If the highway is not sufficient, 414
If an ancient inclosure, ibid.
Where there is an old hedge on one side, and a new one made on the other, ibid.
Where the hedges on each side are made by different persons, ibid.
Where the highway is laid open after it has been inclosed, ibid.

HIGHWAYS.
Respecting Individuals who are bound to repair by Prescription.
Repairing by prescription, 414
How it applies to individuals only, 415
Townships, or other divisions within a parish, may be liable to repair, ibid.
A private agreement not confirmed by an inquisition ad quod damnum, ibid.
Where there is an express exemption, 416
Respecting Repairs by private Persons.
Repairs by private persons, how to be enforced, ibid.
Persons enfeoffed with lands for the maintenance of causeways, &c. shall let them at the most improved value, ibid.
Of the Proportion of Labour or Rate.
Proportion of labour, 417
Person keeping a team, draught, or plough, and not occupying above 50*l.* a-year in the parish where he resides shall send for six days one carriage and two men, ibid.
If occupying 50l. a-year beyond the said yearly value of 50l. in the same parish, 418
Or 50l. a-year in another parish, ibid.
Keeping a team and not occupying 30l. a-year, 419
Sums to be deemed compositions, and to be recovered by the surveyor, ibid.
Justices may discharge poor persons from payment of rates, 419—424
Person keeping one or two horse carts only, 420
a coach, ibid.
Team-duty may be exchanged for labourers, ibid.
Where teams are not necessary, the surveyor may call for part of a team, 421
Militia-men exempted, ibid.
Composition instead of Labour.
Composition in lieu of labour, ibid.
Where the whole of the composition money shall be required, 422
Composition for the repair of a turnpike road running through several townships, ibid.
Magistrates granting authority to collect composition, 423
Where collected in several townships, ibid.
To be paid to the surveyor, ibid.
recovered by the surveyor, ibid.
Justices may direct team-duty to be performed in kind, 424
Exception, ibid.

HIGHWAYS.
Composition instead of Labour.
Labourers may be ordered by the justices to do statute-duty on payment of the usual wages, 424
Persons to perform statute-duty to be drawn by lot, ibid.
Rate of composition for persons occupying under 50l. above 50l. and under 100l. and so on, 425
Persons keeping carriages, though not occupying to the amount of 50l. liable to composition, 426
Justices may mitigate the composition where a person maintains his team partly from lands in another parish, 427
Surveyors to give notice of the time and place for compositions, ibid.
Persons changing their occupations, 428
Surveyor receiving more composition than required, to return it, ibid.
Keeping a draught or plough and no carriage, ibid.
Where there are turnpike roads, a proportion of the composition to be paid to the turnpike surveyor, ibid.
Working.
The justices may order what roads shall be repaired first, 429
Inhabitants may fix three months within the year in which no statute duty shall be performed, ibid.
What notice to be given for performing statute duty, ibid.
Penalties for neglecting to send carts, &c. 430
Surveyor to call for the duty equally, ibid.
Where the whole duty unnecessary, ibid.
Tools to be brought, ibid.
Manner of working, ibid.
Penalty for not working according to the direction of the surveyor, 431
Enforcing performance of statute duty, and for levying fines and arrears, ibid.
Justices of cities to execute act, ibid.
Not to alter former acts, but where expressly amended, 432
How to procure Materials.
Getting materials, 432
To be taken without making satisfaction, except for damages done in carrying them away, 433
Not to be gathered without the consent of owner, ibid.
Not to extend to stones thrown up by the sea, ibid.
If sufficient materials cannot be found on waste lands, &c. the surveyor may take them from inclosed lands, ibid.

HIGHWAYS.
How to provide Materials.
Maliciously trespassing, 434
Clay may be got and burnt into materials for repairing the highways, ibid.
If the owner of inclosed lands shall require such materials for his own use, ibid.
Stone, &c. not to be dug for any other parish than that where found, 435
Damaging any bridge, &c. by digging materials, ibid.
Surveyor may contract for materials, ibid.
Penalty on surveyor having any share in the contract, ibid.
Pits made by surveyor in digging for materials to be filled up or fenced off, 436
Penalty for neglect after notice, ibid.
Obstructions and Annoyances.
Injuries to a highway, public nuisance, 437
Any one may abate a nuisance, ibid.
Nuisance begun by the ancestor and continued by the heir, ibid.
Foul ditches, ibid.
Boughs of trees hanging over a road, ibid.
Tree overhanging the highway, ibid.
A gate erected in a highway, a common nuisance, ibid.
Trees and hedges, &c. not to be within fifteen feet of the centre of highway, ibid.
Hedges, &c. to be cut and pruned, 438
Not to be cut except between the last day of September and the last day of March, 439
Ditches, drains, and watercourses, ibid.
Where old ditches, &c. are insufficient, new ones are to be made, ibid.
Straw, dung, or other matter laid on the highway, 440
Stone, timber, hay, straw, &c. laid within fifteen feet of the centre of the highway, not removed after notice, ibid.
Penalty for encroaching on highway, ibid.
Encroachment may be taken down by the surveyor, 441
Surveyor to give notice, and cause defects to be amended, ibid.
Offenders not removing nuisances, &c. after notice the surveyor shall do it, and charge the offender with the cost, ibid.
Carriages or implements of husbandry left in the highway, 442
Drivers of carriages in London misbehaving, ibid.
Carter, drayman, &c. riding on his cart or dray, &c. in London, or within ten miles thereof, ibid.

HIGHWAYS.
Obstructions and Annoyances.
Causing obstructions, 442
Any person seeing the offence committed may apprehend the offender without warrant, 443
Offender refusing to discover his name and place of abode, ibid.
Inhabitants may be witnesses, ibid.
Driver of empty carts, waggons, &c. refusing to turn aside for a coach, &c. 444
Owner's name and place of abode to be put on carriages, 445
Direction Posts, Blocks, Milestones, Watermarks, and Battlements of Bridges.
Direction posts, &c. 446
Horse and foot causeways, ibid.
Destroying parapets, battlements of bridges, or milestones, 447
Breadth of Wheels and Number of Horses.
Breadth of wheels and number of horses, 447
Penalty, 448
Carriages on wheels of sixteen inches breadth, 448
Prosecutions to be within three days, ibid.
Justices may license an increase of the number of horses, ibid.
Exception as to snow and ice, ibid.
large stones, &c. 449
Two oxen to be considered as one horse, ibid.
As to the wheels of carts, &c. within the bills of mortality, ibid.
The Breadth, widening, changing, and diverting Highways.
Highways may be changed by a writ of ad quod damnum, 450
Repair of a road made in pursuance of a writ of ad quod damnum, ibid.
The Breadth, repairing, changing, and diverting Highways.
A new road in another parish, 451
Changed by the act of God, ibid.
of parliament, ibid.
two justices, ibid.
When two justices may widen highway, ibid.
Satisfaction to be made to owner of ground, 452
Costs of proceedings, 453
On payment of money, assessed ground to be deemed a public highway, ibid.
Saving to the owner, ibid.
Money to be raised by assessment, 454

HIGHWAYS.

The Breadth, repairing, changing, and diverting Highways.

Old way to be stopped up and the land sold, where new way is made, 454

Power of justices to order highways to be widened extends to roads repairable ratione tenuræ, 455

Justices in certain cases, by order of a special sessions, may divert and turn certain highways, bridleways, and footways, ibid.

Justices may order the stopping up of unnecessary highways, 456

Notice must be affixed at the place, &c. and inserted in the newspapers of the county in which such highways, &c. lie, ibid.

Order to be returned to the clerk of the peace, and confirmed and enrolled at quarter sessions, 457.

Persons injured by any such order or proceedings may appeal to quarter sessions upon giving ten days' notice, ibid.

If no appeal be made, or if such order be confirmed, the old ways may be stopped and proceedings shall be conclusive; and new highways shall afterwards continue public highways, &c. 458

The order of justices for diverting a highway must state that the person consenting was owner of the estate, 459

Where a footway is diverted, three descriptions of notice must be given, ibid.

The order for stopping an unnecessary highway must be made at a special sessions, ibid.

Where an order is made for turning a footway, and afterwards another for stopping up the old one, appeal may be made against the last order, 460

Highways having been turned above twelve months without an order, ibid.

Unnecessary roads may be stopped up, ibid.

But in cases only where a new road is set out, 461

Changing and diverting Highways.

Common lands lying near a road to be stopped up, ibid.

When old footways are stopped up and new ones laid out, in what manner the owners of lands shall receive satisfaction, ibid.

How Assessments are to be made.

Assessment to pay expenses incurred for buying materials, making satisfaction for damages, &c. 462

Not to exceed 6d. in the pound in one year, ibid.

If the duty and the money shall not be sufficient, the justices may order an assessment, ibid.

HIGHWAYS.
How Assessments are to be made.
The whole assessment not to exceed 9d. in the pound, 463
Upon application of surveyor of the highways, justices may direct an additional assessment, ibid.
Notice thereof to be given, 464
Limiting the amount of assessment, ibid.
Resisting the Execution of the Act.
Penalty on persons resisting the execution of the act, or constable refusing to obey the warrant of a justice, 465
Penalty on Surveyor for Neglect of Duty.
Where no particular penalty is imposed, ibid.
Respecting the Surveyor's Account.
Assessments to be collected within the year, 465
Surveyor to keep a book, and enter account of monies received and paid, ibid.
And of monies due, 466
And of implements, ibid.
And produce it at a public meeting, ibid.
And verify his accounts on oath before justices, ibid.
Which may be allowed by the justice, or postponed to the special sessions, ibid.
Books to be delivered to a churchwarden or overseer, or principal inhabitant, and a duplicate thereof to the succeeding surveyor, 467
Also all monies, tools, &c. ibid.
Succeeding surveyor may collect arrears, ibid.
Surveyor dying, ibid.
neglecting his duty, ibid.
No appeal against accounts of surveyor, 468.
Respecting the Presentment or Indictment of Highways in general.
Wants of repairs to be mentioned, ibid.
What a presentment by a justice must express, ibid.
Parish lying in two counties, ibid.
When part of a parish is in one county, and part in another, ibid.
Essentials in an indictment for not repairing, ibid.
Plea by a parish, ibid.
an individual, ibid.
Paving a particular street under a statute, the inhabitants are not exempted from their liability to keep it in repair, 469
When a particular person is bound to repair, ibid.
No excuse for the inhabitants not repairing a highway, ibid.
Inhabitants at a meeting may agree to prosecute an indictment, ibid.

HIGHWAYS.
Respecting the Presentment or Indictment of Highways in general.
Notice required for holding vestry or public meeting, how to be given, 470
Court may award costs on an indictment to the prosecutor or defendant, ibid.
Respecting a Presentment by a Justice.
Justices may present on their own view, ibid.
Sessions may order the prosecutions to be carried on at the expense of the division, 471
Fines may be assessed by the justices, ibid.
Certiorari, ibid.
Respecting the Levying of Assessments, Fines, &c.
Levying of assessments, ibid.
Surveyor may be a witness, ibid.
Inhabitants not competent to give evidence on an indictment for not repairing, ibid.
Fines for not repairing, 472
To be levied on one or more of the inhabitants, ibid.
Only one fine for not repairing, ibid.
Where a parish consists of two districts, ibid.
Penalties and forfeitures, costs and charges, how to be recovered and applied, 473
Offender living out of the district, ibid.
Distress not to be made till six days after conviction, 474
Penalties above 40s. may be sued for, ibid.
But one recovery for the same offence, ibid.
Witnesses, ibid.
Inhabitant may be witness, ibid.
Justice may administer oath, ibid.
Irregularity in proceedings, 475
Tender of amends, ibid.
Certiorari, ibid.
Respecting the Appeal.
Appeal may be made to quarter sessions by person aggrieved by any thing done in the execution of this act, 475
No appeal lies against the surveyor's accounts, 476
Proceedings before justices to be returned to the quarter sessions, ibid.
No appeal unless notice thereof be given, ibid.
Limitation of Actions.
Actions to be brought within three calendar months, 477

INDENTURES
Of apprenticeship, how allowed, 2
When not valid, 4, 5, 6

INDUSTRY.
Houses of.
Regulations respecting poor children bound out by, 10
INFANT PAUPER
May bind himself apprentice for his own benefit, 7

JEW
Disqualified from serving office of churchwarden, 31
JUSTICE.
Consent of, to allowance of parish indentures, 6, 7

MAINTENANCE OF POOR.
Poor persons to relieve and maintain each other according to their ability, 96
Justices may order relief, ibid.
No obligation to maintain children of wife by a former husband, ibid.
Except during her life, ibid.
Son's father not obliged to maintain son's wife, ibid.
Grandfather to keep grandchild, 97
Wife's mother, ibid.
What is meant by children in the statute, ibid.
Of the Order of Maintenance.
Order to set forth that the person is poor, ibid.
And that the party on whom it is made is of sufficient ability, ibid.
To pay indefinitely as to law, good, ibid.
Pauper not to be sent to the party on whom the order is made, ibid.
It should appear in the order that the party is chargeable, 98
The order may be for time past, ibid.
Indictment lies for disobeying order, ibid.
Persons running or going away and deserting their families, ibid.
Order must state how much of the goods and rents are to be appropriated, 99
Deserting Family.
Persons deserting their families to be deemed rogues and vagabonds, ibid.
Second offence, ibid.
MASTER.
See tit. "PARISH APPRENTICE."
MILITIA MEN.
See tit. "RELIEF OF POOR."
Exempted from statute duty, 421
Serving the office of constable, 491

OVERSEERS.
For what Places they may be appointed.
Where and in what manner overseers to be nominated, 37
Townships and villages are entitled to have, ibid.
Mayors, &c. have the same authority as justices, 38
If a parish extend into two counties or liberties, ibid.
District must be either a parish or township, ibid.
Separate overseers may be appointed for a village, if a parish by reputation, ibid.
Such reputation not to have commenced before the 43d Eliz.
Appointment must be for a parish township or village, 39
43 Eliz. extends to all townships and villages, ibid.
Overseers to be appointed in the several townships, &c. within the several counties, ibid.
It must be a township or village, ibid.
A place in a parish must be a township or village, and have distinct overseers, ibid.
Must either be a village or a reputed village, ibid.
Return to a mandamus, ibid.
As to what is a Township or Village.
Definition of, 40
A place consisting of one or two houses, neither a township nor village, ibid.
What is a village according to the modern acceptation of village, ibid.
Although but one or two houses in a place, it may be a village, ibid.
Where there is a constable, ibid.
An extra-parochial place with five houses is not a township or village, ibid.
And so where there is one capital messuage and four cottages, ibid.
The site of a cathedral and its area not a village, ibid.
Hamlet and village synonymous, ibid.
Number of.
What number to be appointed, 41
There must be two at the least, ibid.
As to the powers of a local act, directing two overseers to be appointed annually for a place, does not repeal 43 Eliz. ibid.
Who may be appointed.
They must be substantial householders, ibid.
Partners carrying on trade in one place, and residing in another, are liable to serve the office of overseer for the parish where the business is carried on, ibid.
Where day labourers may be, 42
A woman may be, ibid.

OVERSEERS.
Who may be appointed.
Persons remaining only part of a year, eligible, ibid.
Justices to determine the necessity of appointment, ibid.
Churchwardens are overseers by virtue of their office, 47
Persons exempt from being appointed.
Churchwardens, 42
Clergymen, ibid.
Dissenting ministers, ibid.
Peers, 43
Members of parliament, ibid.
Aldermen of London, ibid.
Justices of the peace, ibid.
Barristers, ibid.
Attornies, ibid.
Physicians, ibid.
Surgeons, ibid.
Apothecaries, ibid.
Non-commissioned officers, &c. of militia, ibid.
Captains in the guards, ibid.
Yeomen in ordinary, ibid.
Officers in the army, ibid.
Persons prosecuting felons to conviction, ibid.
Officers of the customs, tide waiters, and revenue officers, 44
Non-resident overseers may be appointed, ibid.
Assistant overseer may be appointed, 45
At what Time to be nominated, and by whom.
When the appointment is to be made, 46
Validity of, if made on a Sunday, ibid.
Judicial acts done on a Sunday void, ibid.
Where two appointments made on the same day, ibid.
If appointment be not made within the time limited by the statute, ibid.
Appointment once made cannot be altered but on appeal, 47
must be made by justices out of sessions, ibid.
where a parish is partly within a town corporate, and partly within the county, ibid.
must be in writing under the hands and seals of the justices, ibid.
and to be signed and sealed in each other's presence, ibid.
but the justices may confer together and agree, and sign and seal afterwards separately, 48
supplementary, ibid.

OVERSEERS.
At what Time to be nominated, and by whom.
Overseer dying or removing, or becoming insolvent, 48
removing, to deliver over all books, &c. ibid.
dying, his executors, &c. to pay the money, ibid.
continuing living insolvent, and resident in the parish, will remain in office till the end of the time limited for the appointment of new overseers, ibid.
As to obtaining, enforcing, and avoiding the appointment.
Mandamus will be granted to compel magistrates to make appointment, 49
If there be no nomination, justice to forfeit 5l., ibid.
Appointment may be enforced, ibid.
A person appointed is overseer until the appointment is pronounced void either by the sessions or the court of K. B., ibid.
Confirmation of appointment, ibid.
Avoiding of appointment, 50
Appeal against appointment to the next quarter-sessions, ibid.
What is meant by the next sessions, ibid.
Justices should have notice of, 51
Notice of, when not necessary, ibid.
Appointment may be questioned collaterally, ibid.
Order of removal to a wrong district, ibid.
Special case may be reserved on appeal, ibid.
Certiorari to remove appointment, 52
The propriety of appointment may be questioned, ibid.
As to the Constitution and Incidents of the Office of.
Where a parish extends into more counties than one, ibid.
All acts to be done by a majority of officers, ibid.
Overseers of places where there are no churchwardens, to act as churchwardens as to the matters of the poor, ibid.
And have the same jurisdiction, 53
Jurisdiction of overseers of townships, &c. ibid.
Overseers to have the custody of the instruments of appointment, ibid.
As to the general Duties and Powers of.
Churchwardens and overseers to set the poor to work, &c., ibid.
And to purchase articles for that purpose, ibid.
To meet once a week under the penalty of 20s., 54
Exception as to extra-parochial places, ibid.

OVERSEERS.
As to the Protection of whilst in Office.
Notice of appointment necessary, 54
Protection of, ibid.
Churchwardens, &c. when entitled to double costs, 55
Overseers and others acting under the warrant of a justice are under the protection of this act, ibid.
Punishment of for neglect of duty, abuse of office, &c. ibid.
Neglect of duty in office, and non-acceptance of the office, ibid.
Neglecting to provide for the poor is indictable, ibid.
Parish officers neglecting to obey the directions of the act, 56
punishment of neglecting their duty, &c. ibid.
appeal to next sessions, ibid.
No person acting under a warrant of a justice to be deemed a trespasser ab initio, ibid.
Parishioners may be witnesses in actions against parish officers, ibid.
Neglecting to give information of a lunatic pauper, ibid.
Not giving information of the state of a lunatic pauper, 57
Churchwardens, overseers, &c. not to furnish goods, &c. for the workhouse, either directly or indirectly, ibid.
Parish officer supplying coals, ibid.
Relieving a pauper, part in money and part in goods from his shop, ibid.
Churchwarden supplying wheat, &c. for the poor when he is churchwarden, penalty 100l., 58
Guardians of the poor supplying provisions to the master of a workhouse for the poor, penalty 100l., ibid.
Within the meaning of 55 G. 3. c. 137., ibid.
As to recovering Possession of Parish Houses, &c.
Justices empowered, in certain cases, to deliver the possession of parish houses to overseers, ibid.
Recovering possession of parish houses, &c., ibid.
Two justices, on complaint by the parish officers, may cause possession to be given, 59
Justices empowered to deliver possession of land appropriated for the poor, ibid.
OVERSEERS' ACCOUNTS.
Accounts to be passed, 195
Property of lunatics, ibid.
Militia accounts, 196

OVERSEERS' ACCOUNTS.
Constables' accounts, 196
Money expended on the binding out apprentices, ibid.
The final account with the parish, ibid.
Balance may be levied by distress and sale, 197
Churchwarden or overseer may be committed to prison until he make over his accounts, ibid.
At what period they shall be made up, ibid.
Parish officers neglecting to account, ibid.
Conviction of a late overseer for not delivering up a certain book called "The Bastardy Ledger," ibid.
Account to be submitted to two or more justices at special sessions, 198
Churchwardens, &c. refusing or neglecting to account and verify it on oath, ibid.
Penalty for such refusal or neglect, 199
Parish officers aggrieved by the disallowance or alteration made by the justices, may appeal to the next quarter sessions, ibid.
Churchwarden to be called overseer in commitment, 200
The subjects of the accounts, ibid.
What they are entitled to charge, ibid.
Expenses of lawsuits, ibid.
Overseers cannot charge their own expenses, 201
Salary to an assistant, ibid.
When one officer is out of pocket, and another has a surplus in hand, 202
Overseers may reimburse themselves out of a subsequent rate during their year, ibid.
If they neglect to pay themselves while in office, ibid.
Executors of overseers have no claim for payment by their successors, ibid.
Succeeding overseers may reimburse the preceding, 203
Preceding overseers may be reimbursed what they have advanced, ibid.
Must be fairly written in a book and signed by the officers, ibid.
Time allowed for rendering the account, 204
Until the end of each time the parish cannot call for the account, ibid.
Delivery of account not dispensed with, ibid.
Be submitted to two justices at special session, ibid.
50 Geo. 3. c. 49. not to affect local accounts, ibid.
When justices cannot commit for not accounting, 205
If accounts have been laid before one set of justices, ibid.
Where the parish extends into more than one county, ibid.

OVERSEERS' ACCOUNTS.
When the account is passed, 205
Order of vestry will not justify the retaining of a balance, ibid.
Two justices may compel payment of balance, ibid.
The order to be to all the officers, ibid.
If no order to pay balance made at sessions on appeal, 206
Books of, to be kept in a public place for inspection, ibid.
Vestry to direct where the book shall be kept, ibid.
Balance in hand must be paid over, ibid.
Overseers, how discharged, ibid.
Justices may enforce payment of balance after appeal, ibid.
Balance to be levied by distress, 207
There cannot be distress before commitment in cases of nonpayment of the balance, ibid.
Where there are four towns in one parish, ibid.
Order to pay over balance, ibid.
One overseer should reimburse the other, ibid.
Refusing to deliver over the account book, ibid.
Removal of an order of sessions allowing accounts, ibid.
Overseers cannot charge a salary paid to an overseer, 208
Any person may appeal against, ibid.
Notice of appeal must state the ground thereof, ibid.
In corporations not having four justices, ibid.
The appeal must be to the next general quarter sessions after the allowance, ibid.
Must appear to have been allowed, 209
Appeal against disallowance, ibid.
Given by 43 Eliz. c. 2, not taken away, ibid.
Order of sessions not to be removed, ibid.
50 G. 3. c. 49, not to extend to places having local acts, ibid.
How far 43 Eliz. affected by, ibid.
Where accounts are not allowed in time for notice of appeal, 210
Inhabitants may be witnesses, ibid.
Overseer refusing to deliver up accounts within fourteen days may be committed, ibid.
Account of parish collector of rate, ibid.
Refusing to pay balance of accounts after allowance and order, ibid.
It is not necessary that the accounts should be allowed before appeal, 211

PARISH APPRENTICES.
Binding of.
Power of parish officers to bind poor children, 1

PARISH APPRENTICES.
Binding of.
How parish apprentices are to be bound, 1
Child not to be apprenticed beyond forty miles out of the county, 2
Distance not limited to cities, ibid.
Indentures must be allowed by justices of the peace, ibid.
Allowance of justices of the county valid in towns, ibid.
Penalty on parish officers binding poor children without the order and allowance, ibid.
on the master taking an apprentice without the order and allowance, 3
Master moving out of the county or beyond forty miles, ibid.
Indentures not valid unless approved of by justices, 4
Offenders not paying penalty within a month may be committed, ibid.
Provisions of stat. 56 Geo. 3. c. 139, as to overseers to extend to churchwardens, ibid.
Indenture executed by one churchwarden and one overseer, 5
signed by two persons duly acting as churchwardens, ibid.
executed by churchwardens before sworn into office, ibid.
officers of a township, 6
one churchwarden, &c. for a township, &c. ibid.
Consent of justices, how given, ibid.
If one justice sign indenture and be afterwards present when it is signed by the other, it will be sufficient, ibid.
Master executing the counterpart of the indentures which were signed by one justice only, 7
Consent of justices applies only to poor children, ibid.
Infant pauper may bind himself apprentice for his own benefit, ibid.
Parish indenture must contain a promise, that the covenant for maintenance shall not be in force longer than three months after master's death, ibid.
Refusing to receive and provide for parish apprentice, according to the indentures, 8
Appeal, ibid.
Party may be indicted for disobeying the order of justices, ibid.
Parish officers the best judges who are fit to be masters, ibid.
Master obliged to take parish apprentice, ibid.

PARISH APPRENTICES.

Binding of.
Gentlemen and clergymen liable to take parish apprentices, ibid.
Occupiers of tithes also liable, ibid.
Officers in the army, ibid.
Persons occupying land in, and residing out of the parish, 9
holding lands in partnership, ibid.
Master misusing his apprentice, ibid.
not obliged to give apprentice wages or clothes, ibid.
Parish apprentices may be assigned, ibid.
Two justices may discharge apprentice, ibid.
Master not to put away his apprentice without consent of justices, ibid.
Penalty for so doing, 10
Persons to whom parish apprentices are bound in hundreds, &c. to receive and provide for them, ibid.
Appeal to sessions, ibid.
Exemption from taking apprentices, ibid.
Poor children bound out by houses of industry, ibid.
Registering of.
Parish officers to keep a register book of all children put out, 11
Penalty for not keeping it, ibid.
In default of distress, commitment, 12
The book may be inspected and copies taken, ibid.
Persons having power to bind out parish apprentices to be subject to the penalties for not complying with the act for registering such apprentices, ibid.
Appeal to the first quarter sessions, ibid.
Money given to bind out.
To be continually employed, ibid.
put forth within three months, 13
accounted for, and balance paid over, ibid.
Master to repay the premium at the end of seven years, ibid.
Trustees breaking their trust, ibid.
Binding poor Children to the sea Service.
Parish apprentices may be bound over to the sea service, 14
Justices and head officers of corporations and parish officers, may put out poor boys at ten years of age to sea service, 13
Owners or masters of ships to have a certain number of apprentices, 14
But not obliged to take them under thirteen years of age, 14

PARISH APPRENTICES.

Binding poor Children to the sea Service.

Apprentices to sea service to be indentured for four years at the least, 15
age to be inserted in the indentures, ibid.
Parish officers to pay 50s. for clothing and bedding, ibid.
to send indentures to the collector of the port where the master belongs, ibid.
and to convey the apprentice thither, ibid.
Counterpart of the indentures to be executed in the presence of the collector, ibid.
Apprentices enrolled not liable to serve in the navy till twenty-one years of age, 16
Owner or master neglecting to enrol the indenture, or suffering the apprentice to leave, ibid.
Application of the penalty, ibid.
Apprentices to sea service may be employed on board any other vessel, ibid.
Voluntary apprentices to be protected for three years, ibid.
Persons not used to the sea service protected, 17
eighteen years of age not protected if they have been in the sea service before bound, ibid.
Parish or voluntary apprentice impressed, ibid.
Poor boys apprenticed to the sea exempt from the payment of sixpence a month, ibid.
Master to give an account of the number of apprentices so bound to the collector at the port, ibid.
Collector to keep a register with the names, &c. of apprentices, and to transmit copies to the sessions when required, ibid.
All complaints to be determined by two justices, 18
Parish apprentices may be assigned on death of master, ibid.

Binding to Chimney Sweepers.

Parish officers may bind poor boys apprentices to a chimney sweeper, ibid.
Age of apprentices to be inserted in the indentures, ibid.
If under nine years, indentures void, ibid.
Overseers of townships have the power of binding, 19
Complaints to be settled by one justice, ibid.
Masters not to have more than six apprentices at one time, ibid.
misusing or illtreating apprentices, ibid.
letting out, or causing apprentices to cry in the streets, ibid.

PARISH APPRENTICES.
Binding to Chimney Sweepers.
Penalties and costs to be recovered before one justice, and levied by distress, ibid.
Distress warrant not to issue until six days after conviction, 20
Appeal to the next quarter sessions, ibid.
Differences between Masters and Apprentices.
May be settled by one justice, ibid.
Complaint of apprentice of want of necessary provision, cruelty, &c. 21
Where parish apprentice is discharged, the master to give up his clothes and pay 10l. to the parish officers, 22.
Parish officers may be compelled to prosecute the master by indictment for illtreating apprentice, ibid.
Costs, how to be paid, ibid.
Master may appeal, ibid.
Warrant of distress not to issue until after the next general sessions, ibid.
Justice may impose a fine on the master for ill usage of apprentice, 23
Master may appeal to the sessions, ibid.
Persons acting under the warrant of distress not to be deemed trespassers, ibid.
Apprentices misbehaving, &c. may be punished, ibid.
Where the justices direct an apprentice to be discharged, they may order the master to refund all or part of the premium, 24
Apprentices discharged for ill-behaviour may be committed to the house of correction, ibid.
Appeal against determination of justices, 25.
No certiorari, 25.
Where no appeal is specially given, ibid.
Apprentice fleeing into another county, ibid.
Apprentice absenting himself.
Consequence of, ibid.
If the apprentice refuse to serve or give satisfaction, 26
Complaint may be made by master or his steward, &c. against an apprentice of misconduct, ibid.
Disputes between masters and apprentices about wages to be settled by justices, 27
Servants in husbandry, artificers, &c. may recover wages in the absence of their masters, &c. ibid.
Justices may order payment of wages within such time as he shall think fit, 28
Not to extend to lessen the jurisdiction of London, ibid.

PARISH APPRENTICES.
Master dying or becoming bankrupt.
Master dying during the term of the apprenticeship, the apprentice to serve the widow, &c. for three months, &c. ibid.
Justices may order apprentice to serve the widow, &c. of master dying, if application made within three months, 29
If no application made, apprenticeship to cease, ibid.
Not to extend to parish apprentices, ibid.
Master refusing to maintain apprentice during the three months, ibid.
Apprentice to a bankrupt is discharged from the indenture, ibid.
PARISH BEADLE.
Appointment of, 505
Duty of, 505, 6
Is a constable, 506
PARISH CLERK.
Origin of parish clerk, 503
Appointed by the incumbent, ibid.
Chosen by the parishioners in vestry by custom, ibid.
Archdeacon compellable to confirm the appointment, ibid.
How he should be qualified, ibid.
His duty, 504
PARISH SEXTON.
Appointed by vestry, 504
His duty, ibid.
salary, ibid.
If removed without sufficient cause, 505
PEERS
Exempt from serving office of churchwarden, 31
PERAMBULATION OF PARISHES.
To be made once a year, 404
PHYSICIANS,
In London, exempted from serving the office of constable, 489
POOR RATES.
How a poor rate is to be made, 60
Who are to make the Rate.
Concurrence of inhabitants not necessary, 61
Mandamus will be granted to compel the making of a rate but not of an equal rate, ibid.
As to the Purposes of, the Time for which, it may be made, and as to reimbursing the Overseers.
The purposes for which a rate may be made, ibid.

POOR RATES.
As to the Purposes of, the Time for which, it may be made, &c.
As to the mode in which the poor are to be relieved, 61
constables are to be repaid, ibid.
Expenses of litigating questions of settlement or removal of paupers, 62
of valuation of property of a parish, ibid.
A rate cannot be made to repay money borrowed, ibid.
pay salary to overseer, 63
reimburse overseers after they are out of office, 62
An overseer for several years cannot make a rate to reimburse himself for preceding years, ibid.
Succeeding churchwardens and overseers may repay preceding overseers, ibid.
Expenses to constables for parish business, 63
As to the Time a Rate may be made for.
Poor rate may be made prospectively, ibid.
A standing rate cannot be made, ibid.
Upon whom a Rate may be made.
Upon every inhabitant, &c., ibid.
A person living in one parish and having lands in another, ibid.
Corporate body rateable, 64
Power by 59 G. 3. c. 12 s. 19 to rate owners of certain houses instead of occupiers, ibid.
After 1st January 1820 inhabitants in vestry may direct the owners being the immediate lessors, to be rated, ibid.
Not to extend to assess the owners of houses, &c. let at 20*l.* a year and upwards, 65
Form of rate, ibid.
On nonpayment to be levied upon the goods, ibid.
Goods of occupiers may be distrained for rates to the amount of rent actually due, ibid.
Occupiers paying rates empowered to deduct the amount out of their rent, 66
Receivers in certain cases may be rated as owners, ibid.
Persons rated as owners may appeal, ibid.
vote at vestries, ibid.
No owner not being an occupier to be rated in places where the right of voting for members to serve in parliament depends on the rating, 66, 67
Poor rate not a charge on the land, 67
Court of K. B. will not decide who should, or who should not be rated, ibid.

POOR RATES.
Upon whom a Rate may be made.
No inhabitant to be rated for an estate in another parish, 67
Lessee of a stall in a market, when rateable, ibid.
Occupier of part of a house, when rateable, ibid.
A house dedicated to charitable purposes, not rateable, ibid.
Persons living on a charitable foundation for their own benefit are rateable, 68
Hospital lands rateable, ibid.
Officer of a college residing in the college is rateable, ibid.
Such parts of a lunatic hospital as are occupied by others than the objects of the institution and servants, are rateable, ibid.
The rate must be charged on the occupier, ibid.
A corporate body and the master and fellows of a college are rateable for what they occupy, 69
A master of a free-school is rateable for the school-house, &c. ibid.
Royal palaces rateable, ibid.
Beneficial occupier of king's lands rateable, ibid.
Stables rented by order of the crown for a regiment not rateable, ibid.
A master gunner occupying the king's battery-house rateable, ibid.
Soldiers in barracks, ibid.
Residence by a servant of the crown, and the public offices only, 70
Rule of law as to public servants, ibid.
Trustees of a meeting-house where no profit is made are not rateable, ibid.
Private building used as a chapel, ibid.
Methodist chapel rateable for profits of building, ibid.
Tolls of a sluice, when rateable, 71
Lessee of tolls of a public bridge not rateable, ibid.
Occupancy by a servant to a quaker meeting-house, ibid.
A house occupied by a surveyor of the River Lea navigation is rateable, ibid.
Land, Houses, &c.
What is rateable, ibid.
A farmer's stock, ibid.
Stock in trade, 72
Personal estate, ibid.
property, ibid.

POOR RATES.
Land, Houses, &c.
What is not rateable,
Household furniture, 72
Money in the funds, ibid.
Salaries, ibid.
Fees of an attorney, ibid.
Sessions cannot add to a rate, ibid.
must quash rate, if persons' names left out of the rate, ibid.
Tithes.
Vicarial tithes rateable, 73
Parson letting his tithes ought to be rated, ibid.
Farmer of tithes, when to be rated, ibid.
Tithes of fish rateable, ibid.
Oblations and offerings, ibid.
Manorial Profits.
What are rateable,
Lessee of lead mines, with lot and cope, ibid.
coal mines, 74
Toll tin and farm tin, ibid.
Lessees under lord of manor of lot, &c., ibid.
Owner of soil of tin mines, ibid.
Lime works, 75
Slate works, ibid.
Clay pit, ibid.
What are not rateable,
Rents and casual profits of a manor, 73
Iron mines, ibid.
Lead mines, ibid.
Coal mine exhausted, ibid.
Landlords not resident leasing lead mines, 74
Lead ore when smelted received as rent, 75
Woods.
Saleable underwoods rateable, ibid.
Firs and larch planted with oak for shelter, ibid.
Commons.
Corporate bodies holding common lands in fee, 76
seised in fee of pasture lands, ibid.
Aftermath rateable, 76
Waggon way rateable,
Right of way being merely an easement, not rateable, ibid.
Farmer letting his dairy of cows rateable, ibid.
Extra Profits from Land.
What are rateable.
Profits of a mineral spring, 77
Land improved by a spring of water, ibid.

POOR RATES.
Extra Profits from Land.
Water company rateable in the parishes where the main pipes lay, 77
Gas-light and coke company not rateable to the amount of profit of trade, but for the amount the premises would let for, ibid.
House containing a steelyard, 78
Billiard table, ibid.
A carding machine, ibid.
A building used as a canteen at an annual sum, ibid.
Docks, Canals, Tolls, &c.
Lands converted into a dock rateable, ibid.
Docks rateable for tonnage duties, ibid.
Canal rates when not rateable, ibid.
Lands and buildings of canal company rateable, 79
Tolls of barge-way rateable, ibid.
Lessee of fishings may be rated, ibid.
market tolls in gross not rateable, ibid.
Where Property is to be rated.
Tolls when mixed with other property, ibid.
of a light-house, 79, 80
corporation, 80
for passing a sluice, ibid.
of canal company, ibid.
Lands and tenements, ibid.
Waste and marsh lands, ibid.
in case of dispute, ibid.
Artificial profits of lands, and profits of water-works, ibid.
Companies supplying parishes with water from a reservoir in one of them, 81
Ships rateable at their home, ibid.
Packet-boat, ibid.
Ancient ferry, ibid.
owner of, residing in a different parish, ibid.
River navigation extending through several parishes, ibid.
Canal company, 82
Proprietors of inland navigation, ibid.
The Proportion in which the Rate shall be made.
The court will not presume an unequal rate, ibid.
Nor will they presume it equal, 83
Nor can they lay down a rule for rating, ibid.
The rate must be according to the improved value, ibid.
rent no criterion of the value, ibid.
nor is the land-tax, ibid.
Persons removing out of parishes, to pay rate in proportion to the occupancy, ibid.

POOR RATES.

The Form of the Rate.

Title of poor-rate, 84
Form of the rate, ibid.
Consent of two justices required, ibid.
and allowance a mere ministerial act, 85
justices cannot refuse, ibid.
Officers of towns corporate, ibid.
Parish extending into more counties than one, ibid.
Rate not to be altered after allowance, ibid.
Separation of towns from parishes, 86
Attachment will be granted for evading signing a poor-rate, ibid.

Publication of the Rate.

Publication of, ibid.
If not published, the rate is a nullity, ibid.

In case of Poverty or Inability to pay Rate.

Justices may excuse from payment, 87

Appeal.

To quarter sessions, upon giving reasonable notice, ibid.
Court may award costs, 88
Rate may be amended or quashed, ibid.
Court may order sum rated not to be paid, ibid.
Notice of, to be in writing, ibid.
not necessary if parties consent, ibid.
to be given to all persons interested, ibid.
Rate how to be recovered, 89
When money to be repaid, ibid.
Corporation justices, ibid.
From corporations not having more than six justices, ibid.
Power of justices of boroughs over appeals, ibid.
Must be to the next sessions, ibid.
meaning of next sessions, ibid.
Only one day intervening between publication and notice of appeal, not sufficient, ibid.
Several may join in one notice, 90
To adjourned sessions, ibid.
Notice of, 90
Which party shall begin, ibid.
If appellant dispute the quantum of the rate at the sessions, ibid.
Parishioner, when a competent witness, 91
Inhabitants are competent witnesses, ibid.
Rates to be entered in a book after appeal, ibid.

POOR RATES.
Distraining for Poor's Rate.
Poor's rate to be levied by distress, 91
Distress may be made not only in the place where the assessment is made, but in any other place in the same county, 92
If distress be not found within the parish, &c. may be made in any other parish or county, ibid.
Notice of appeal, effect of, in distress, ibid.
If rate quashed, ibid.
Oath of refusal to pay must be made before a warrant of distress issues, 93
Summons before warrant of distress, ibid.
Distress not to be declared unlawful for want of form only, ibid.
Remedy where no sufficient distress found, ibid.
Arrears to be levied, ibid.
Goods of persons assessed and dying before payment of rate not distrainable, ibid.
Warrant of distress for several rates, one being quashed, void, 94
Certiorari will not lie to remove poor rate, ibid.
Rate for taxing in Aid.
Taxing other parishes in aid of a poor parish, ibid.
Sessions cannot rate in aid, ibid.
Must be by justices, ibid.
Churchwardens and overseers to buy it, ibid.
Rate may be on any inhabitant, ibid.
It must appear in the order that the parish is in the same hundred, 95
A division equivalent to a hundred, ibid.
County justices cannot rate in aid of a borough, ibid.
Order must be for a limited time, ibid.
Assessment may be for a year, ibid.
Order must be to raise a sum certain, ibid.
When the county liable to contribute, ibid.
Sessions cannot make an original order, 96

QUAKERS.
Refusing to pay or compound for tithes, church rates, &c. 480
Summons, ibid.
One justice may receive the original information, 481
Hearing, ibid.
Adjudication, ibid.
Distress and sale, ibid.
When the warrant of distress should be made out, ibid.

QUAKERS.
Distress may be immediately sold, 481
Proceedings limited to two justices not interested, 482

REGISTERING.
Parish apprentices.
See tit. "PARISH APPRENTICES."

RELIEF OF THE POOR.
Relief by enclosing Wastes, &c.
Enclosing wastes, woods, &c., for the employment of the poor, 99
Planting, 100
Agreement for enclosing must be in writing, ibid.
Appeal to next sessions, ibid.
Mode of relieving and ordering of the Poor.
When to be relieved, ibid.
Setting poor to work, ibid.
Poor not employing themselves, to work, 101
Relief in money, ibid.
Persons entitled to relief in money are those only who work, and that as a remuneration for their labour, ibid.
As to idle and loitering poor, ibid.
A book to be kept for inserting the names of the poor who receive relief, 102
Pecuniary relief to the impotent, ibid.
Poor to do as much work as they are able, ibid.
Overseers to raise by taxation weekly, a stock of flax, &c. to set the poor to work, ibid.
are not bound to employ the poor in any particular work, ibid.
are to do such other things for the employment of the poor as they think fit, 103
A poor person out of employment must not be allowed to starve, ibid.
Impotent means those physically unable to work, ibid.
Parents and children are to relieve each other, ibid.
The party must be impotent, or the order will not be good, ibid.
Persons going out of their parishes to take out a certificate, ibid.
Parish officers refusing to receive paupers removed, 104
The distribution of the funds collected left in the discretion of the overseers, ibid.

RELIEF OF THE POOR.
Mode of relieving and ordering of the Poor.
Books to be kept, and the names of those receiving relief to be entered, 104
A justice cannot order relief at his discretion, ibid.
Persons must be impotent, or they cannot be put on the lists, ibid.
Relief must be by work, ibid.
in money not to be given to those able to work, but out of employment, 105
The union of parishes, ibid.
Temporary distress from frost or floods, ibid.
Primary duty of overseers, ibid.
Parishes may purchase land, &c. to be employed in cultivation by the poor, ibid.
Not exceeding twenty acres, 106
Parish officers may let portions of the land, ibid.
Limiting the amount of assessment and the consent of inhabitants, ibid.
Advance of Exchequer bills for the employment of the poor, ibid.
to be repaid by instalments, 107
If poor-rate be under a select vestry, commissioners or governors of the poor, ibid.
The name of persons receiving relief to be entered in a book, ibid.
None others to be relieved but by order of a justice, ibid.
Justices not to order relief before oath made of the necessity of it, 108
Parish not to be charged with money given to poor who were not registered, ibid.
Order of relief to be made by two justices, and that only for one month, except in cases of urgent distress, then by one justice, ibid.
should state the person to be poor and impotent, ibid.
for weekly relief due the beginning of the week, ibid.
Sessions have no power to order parish officers to pay a surgeon's bill, ibid.
Overseers indictable for refusing medical assistance to a pauper, 109
may lend money to poor persons, ibid.
Pensions may be assigned to parish officers, ibid.
And weekly sums may be advanced to them, ibid.
Form of assignment, ibid.
Assignment must be attested by one justice, 110

RELIEF OF THE POOR.
Mode of relieving and ordering of the Poor.
In case of any dispute with parish officers the sum to be settled by a justice, 110
Assignment void by the death of pensioner, ibid.
Pensioner leaving his family, ibid.
Owners of ships, &c. to pay wages of seamen, whose family becomes chargeable to the parish officers, 111
Penalty for refusing, ibid.
Parish officers may set up trades for the relief of the poor, ibid.
and build on the waste, ibid.
may hire houses and contract for maintaining and employing the poor, ibid.
small parishes may unite for that purpose, ibid.
of one parish may contract with the officers of another parish for lodging, &c. the poor, 112
No settlement acquired by removal under statute 59 Geo. 3. c. 12, ibid.
Power of justices to withhold consent, 113
Contract not valid, unless the contractor reside in the parish where the poor are to be lodged or maintained, ibid.
to be void if contractor remove from the parish, ibid.
but security to remain in force, ibid.
Statute not to affect any special act for maintaining the poor, 114
Contracts subject to the jurisdiction of justices, ibid.
Notice to be fixed on the church door by parish officers, before they enter into any contract for supplying workhouses, &c. ibid.
It is not absolutely necessary that all the parish officers should concur in the contract, ibid.
Parish officers are not obliged to give or continue a weekly allowance to paupers refusing to go into the workhouse, 115
Mother asking relief for her children, not compellable to go to workhouse, ibid.
No appeal against an order of relief, ibid.
Parish officers may build, alter, or enlarge workhouses, ibid.
and may sell insufficient workhouses, ibid.
Churchwardens and overseers may hire or purchase a workhouse in an adjoining parish, 116

RELIEF OF THE POOR.
Mode of relieving and ordering of the Poor.
No sum exceeding a one shilling rate to be expended in one year in purchasing, building, &c. 116
Parish officers may raise further sums by way of loan or annuity, ibid.
Future rates, 117
Parish officers bodies corporate, ibid.
Incapacitated persons may convey, ibid.
Relief at the houses of poor persons in temporary illness or distress, ibid.
Any justice may order relief to a poor person at his own house, ibid.
not exceeding three months, 118
Cause of ordering relief must be assigned, ibid.
Two justices may make further order, ibid.
Money ordered for longer than a month not to exceed 3s. a week, or three-fourths of the weekly expense of a person in the workhouse, ibid.
not to extend to houses of industry, under 22 Geo. 3. c. 83, ibid.
Justices, &c. may visit workhouses, ibid.
Contagious and infectious disease in workhouse, 119
Justices may appoint keeper of a workhouse to be the governor thereof, ibid.
In Workhouses.
Form of appointment of a governor of a workhouse, 120
Pauper embezzling in a poor house, ibid.
to be committed to the house of correction, 121
Poor adults not to be punished by the master of a workhouse, &c. with corporeal punishment, nor confine them more than twenty-four hours, ibid.
Master of workhouse not to chain or confine with manacles any sane person, ibid.
Goods ordered for the use of the poor of a parish may be laid as the property of the overseers, ibid.
Property of goods for the use of the poor vested in overseers, 122
Overseers may bring action or prefer indictment, 122
Statute 55 Geo. 3. c. 137, not to extend to local acts, ibid.
Goods to be marked, ibid.
Persons absconding with workhouse property, 123
The mark on goods proof of the right of property, 123
Misbehaviour by persons in a workhouse, ibid.
Appeal to the next general or quarter sessions, ibid.
Repeal of certain enactments in local poor acts, since the commencement of the reign of George I., 124

RELIEF OF THE POOR.

In Workhouses.

Where a poor-house purchased by joint parishes is in a third parish, 124

No spirituous liquors to be sold in a workhouse, 125

Master of a workhouse selling or giving away spirits therein, ibid.

Spirituous liquors in a workhouse may be seized and destroyed, 126

Persons taking spirits into a workhouse may be arrested and taken before a justice, ibid.

Copy of the clauses relating to spirituous liquors to be hung up in workhouse, 127

To prisoners confined under meme process for debt in gaols, not county gaols.

Justices may order relief to prisoners in gaol for debt, ibid.

Examination of such persons may be taken on oath, and order of removal suspended, ibid.

Copy of the order and suspension to be served on the parish officers of the parish where the prisoner shall belong, ibid.

Persons aggrieved may appeal, if the sum ordered to be paid exceed 5*l.*, 128

Parish officers may appeal, ibid.

Order of removal and suspension not appealed against, ibid.

If the pauper have no legal settlement in England, 129

Lunatic Paupers.

Dangerous lunatics may be confined, ibid.

And goods, &c. sold to pay expenses, ibid.

Moneys received to be accounted for at the quarter sessions, ibid.

The act only applies to vagrant lunatics, ibid.

To be conveyed to the county asylum, 129

Overseer to inform a justice of any insane person chargeable to the parish, 130

If the settlement of lunatic be unknown, ibid.

Justice may refuse to admit lunatic into the asylum, ibid.

Certificate of a medical man to be produced to the justice, ibid.

On discharge of lunatic the expenses to be paid by his parish, ibid.

Bastards born of lunatic in the asylum follow their mother's settlement, 131

Overseers to make a return of all idiots and lunatics in their parish, ibid.

RELIEF OF THE POOR.
Lunatic Paupers.
If lunatic asylum can accommodate more lunatics than the paupers within the district for which it was built, others may be admitted, 131
Lunatics brought before justices by the overseers in order to be conveyed to a place of safety, 132
Certificate of a medical man to be delivered to the keeper of the asylum, 133
Parish officers neglecting to give information of the state of lunatic paupers to justice, ibid.
To Wives and Families of Militia-men.
Militia-men called out leaving a family, 133
Weekly allowance according to the price of labour, ibid.
Militia-man declaring at his enrolment that he had no wife, 134
No allowance to be paid to the wife until the husband has joined his regiment, ibid.
Nor to the family of non-commissioned officer if reduced to the ranks, ibid.
Nor to the family of any substitute, &c. who marries after being called out, 135
The families of militia-men not to be sent to the poor-house, ibid.
Allowances to be repaid to the parish officers by county treasurer, ibid.
Militia-man's family residing in another parish, 136
Parish officers may demand payment from the treasurer of the county, ibid.
Accounts of allowances to be made up every year, ibid.
If family of militia-man in actual service become chargeable, overseers may provide substitute, 137
Payments made by overseers to be allowed in their accounts, ibid.
Provisions of 43 G. 3. c. 47. to extend to all places having separate overseers, ibid.
Balloted man not worth 500*l.* either enrolled or finding a substitute, the parish to pay to the person chosen not exceeding the price for a volunteer or substitute, ibid.
Parish officers refusing to pay, 138
Assignment of Paupers' Pensions, &c. in discharge of the Parish.
Pensions of persons superannuated from the army, navy, marines, or ordnance, may be assigned to indemnify the parishes for ordinances made them, ibid.
Owners of ships to pay wages of seamen to the overseers for the maintenance of their families, 139

REMOVAL.
Who may or may not be removed.
Poor people going from one parish to another, 363
how to be settled coming to any tenement under 10l. yearly value, ibid.
Removal cannot be to a township not having overseers, 364
Extra-parochial district made a township by act of parliament, ibid.
Persons may go into any county, &c. to work, taking a certificate of their habitation with them, ibid.
Punishment of persons returning after removal, ibid.
Persons so offending to be deemed idle and disorderly persons, and dealt with accordingly, 365
Churchwardens and overseers refusing to receive the persons removed, ibid.
Churchwardens must receive a person removed by warrant of justices, under 5l. penalty, ibid.
One justice may examine a pauper as to his settlement, 366
No person can be removed until actually chargeable, ibid.
Persons convicted of larceny, felony, and rogues, vagabonds, and idle and disorderly persons, &c. considered actually chargeable, and may be removed, ibid.
Every unmarried woman with child to be deemed actually chargeable, 367
A married woman pregnant of a bastard, husband abroad, ibid.
Pauper residing on a purchase under 30l. value, not removable, ibid.
Suspension of order of removal, ibid.
As to the Removal of the Wife.
A wife cannot be removed without her husband, unless there was a separation, ibid.
It must appear that the husband was resident with the wife to invalidate the order, ibid.
A wife may be removed *eo nomine*, ibid.
Order removing a married woman not stating her to be such, and her children, held to be sufficient, ibid.
Wife and children of a foreigner, 368
Husband returning after the removal of the wife, ibid.
Where a wife may be removed without the husband, ibid.
A married woman pregnant of a bastard husband, abroad, removable, ibid.
but otherwise if a woman of substance, ibid.

REMOVAL.

As to the Removal of Servants.

A servant cannot be removed from her master on complaint of parish officers, 369

A maid-servant with child, which is likely to be born a bastard, may be discharged from the master's service, and then removed, ibid.

As to Removals under 35 *G.* 3. *c.* 101. *s.* 1.

Order must state the woman to be chargeable, 370

stating that a woman being pregnant is deemed chargeable, good, ibid.

Unmarried woman pregnant, ibid.

A servant settled cannot be removed with a master, ibid.

Removing bastards from their mother, ibid.

As to the Removal of casual Poor.

A person meeting with an accident while passing through a parish, is casual poor, ibid.

A pauper relieved by two parishes removed from one to the other, 371

A pauper belonging to A. meeting with an accident in B. is considered in C. casual poor, ibid.

As to the Removal of poor Persons born in Scotland, Ireland, and the Isles of Man, Jersey, and Guernsey, (not vagrants).

How poor persons born in Scotland, Ireland, &c. are to be passed, although they have not committed any act of vagrancy, ibid.

Rogue or vagabond apprehended to be examined as to settlement, 372

To prevent unnecessary expenses in removing rogues and vagabonds, 373

The duty of the constable with the pass and certificate, 374

At the time of delivering over the pauper the pass and the examination must also be delivered, ibid.

Regulation for passing vagrants to Scotland, 375

Ireland, 376

Wife and unemancipated children of Scotchmen not having a settlement in England, must be sent with the husband, ibid.

An unemancipated daughter of an Irishman not having a settlement of his own in England, 377

As to Soldiers, &c.

Soldiers may set up trades and not be removable while carrying on such trades, ibid.

Working as husbandmen, ibid.

As to the Order.

How to be executed, 378

REMOVAL.
As to the Order.
How in extra-parochial place, 378
extra-parochial places not having overseers, ibid.
A pauper may be removed by any one employed by the parish officers, ibid.
Order made to a wrong place, ibid.
Removal to a village as part of a parish, ibid.
Misdirection of the order, 379
As to the Complaint to the Justices.
Whom to be made by, 379
Complaint made to one justice must be heard by two, ibid.
As to the Style and Jurisdiction of the Justices.
The justices' authority must appear on the face of the order, ibid.
Order not void if signed by the justices separately, ibid.
What the order should state, 380
Direction of the order, ibid.
Justices of the quorum, ibid.
All acts, orders, &c. executed by two justices, acting in a city, &c. valid, ibid.
As to the County.
The county must be mentioned in the body of the order, 381
As to the Description of the Pauper.
Description, ibid.
Parties, ibid.
How children ought to be described, ibid.
Adjudication of place of settlement, ibid.
Ages of children set forth, 382
Where they are removed to the father's settlement, ibid.
What the order must set forth, ibid.
As to the Examination of the Pauper.
What the order must state, ibid.
One justice may summon, but two be present at examination, ibid.
Order signed by justices separately not void, but voidable, ibid.
Examination where pauper becomes insane, 383
of a pauper in order to remove him, is not evidence on appeal, ibid.
Hearsay evidence, ibid.
Clause in 7 Geo. 4. c. 72, relating to the settlement of soldiers for their wives and children when quartered in any part of the united kingdom, ibid.

REMOVAL.
As to the Examination of the Pauper.
The pauper ought to be summoned, 384
not necessary in all cases, ibid.
Order of.
As to the Examination of the Pauper.
Pauper refusing to be examined, ibid.
Examination of prisoner's having wife or child as to settlement, 384
Any magistrate may take examination of an infirm pauper as to his settlement, and report to petty sessions, 385
As to suspending Order of Removal.
Justices empowered to suspend orders of removal of sick or infirm persons, ibid.
Charges incurred by suspension to be paid by the officers of the parish to which they are ordered to be removed, which may be levied with costs, 386
If costs exceed 20l. appeal may be made to the quarter sessions, 387
Justices must indorse warrant of distress, 388
Where the pauper is too ill to be removed, ibid.
The power of justices in ordering costs of removal confined to two cases only, ibid.
In all cases where any order or vagrant pass shall be suspended, any other justice of the county or place where such removal or vagrant pass shall be made, may order the same to be executed and charges to be paid, ibid.
On service of an order the original must be shown, 390
As to the time of appealing against the order of removal, ibid.
Where an order or vagrant pass is suspended, the execution of it shall also be suspended, ibid.
The order of suspension ought to be taken off before the removal of a widow and children, 391
Penalty on parish officers not receiving a pauper sent by order, ibid.
Refusing to obey order, ibid.
Returning after Removal.
Returning after removal without certificate, ibid.
Warrant of commitment must be for a definite time, ibid.
And residing on a tenement of 10l. a year, ibid.
Removal of certificated Person, and reimbursing of Overseers.
Delivery of certificate, 392
Overseers to be reimbursed on removing certificated persons, ibid.
Appeal against the Order of.
Power of appeal, 393

REMOVAL.
Appeal against the Order of.
To the next general quarter sessions, 393
Appeal to be delivered at general or quarter sessions, ibid.
Justices being interested, ibid.
Pauper may appeal, ibid.
Appeal to be to the session of the county, ibid.
Where magistrates of a borough, and not a county of itself, has only a general sessions, 394
To what Sessions the Appeal shall be made.
To the next session, ibid.
That is the next possible sessions, ibid.
Where only two days intervene between the removal and the next sessions, ibid.
The next practicable sessions, ibid.
Adjournment of Appeal.
Appeal may be adjourned, 395
Where the justices are divided, ibid.
Notice of Appeal.
Notice and time of appeal, ibid.
Reasonable notice to be given, ibid.
Sessions bound to receive an appeal though no notice given, ibid.
Unless appellants, having had sufficient time, neglected, 396
Sessions must enter and adjourn where no notice is given, ibid.
Sessions to judge of the reasonableness of the notice, ibid.
As to the Effect of Order unappealed against.
It is conclusive, ibid.
Exception, ibid.
It may be given up by consent, ibid.
It may be abandoned, and an order made to another parish, 397
Of entering Appeal when Order is executed and superseded.
When order superseded, ibid.
In respect of what Facts it is conclusive when unappealed against.
Where order is conclusive, ibid.
Persons removed as man and wife, if order not appealed against, ibid.
Not only against the persons themselves, but to all derivative settlements, 398
Order unappealed against only conclusive against those who are named in it, ibid.

REMOVAL.
Appeal against the Order of.
In respect to what Facts it is conclusive when unappealed from.
A married woman removed under a wrong description, 398
When conclusive as to the question of marriage, ibid.
When conclusive of the place of settlement, ibid.
As between two parishes, ibid.
Confirming or quashing an Order of Removal upon the Merits.
When conclusive to all persons, ibid.
Conclusive of the then settlement, ibid.
Order reversed conclusive as to the parish acquitted, 399
quashed conclusive between the two parishes, ibid.
Special matter may be set forth, ibid.
Order confirmed on appeal conclusive to all the world, ibid.
discharged, ibid.
Quashing an Order for want of Form.
Not conclusive, 400
Defective orders may be amended, ibid.
Want of jurisdiction in justices making the order, ibid.
Of the Judgment of Justices in Sessions upon Order of Removal.
The quarter sessions cannot make an original order, ibid.
Judgment by mistake on a miscalculation of votes, 401
Sessions cannot make an order of review, ibid.
Justices not bound to give a reason for their judgment, ibid.
Respecting the stating a special Case.
Justices not bound to state a case, ibid.
When a bill of exception does not lie, 402
Case not stated sufficiently, ibid.
Certiorari.
To remove, an order of removal must be moved for within six months, ibid.
Respecting Costs and Maintenance.
Justices in sessions may award costs of appeal, 403
are judges whether costs shall be given or not, ibid.
No costs allowed on adjournment without a hearing, ibid.
Justices may award to the appellant what has been paid between removal and appeal, ibid.
Sessions must either give or refuse costs, ibid.

REPAIR.
Of church.
See tit. "CHURCHWARDENS."

ROMAN CATHOLIC.
Minister exempt from serving office of churchwarden, 31

SEA SERVICE.
Regulations as to binding poor children, 14, &c.

SEAT.
In a church.
See tit. "CHURCHWARDENS."

SETTLEMENT OF THE POOR.
Regulations with regard to poor established by stat. 22 Geo. 3. c. 83., 220
Married women, 221
Infants under seven years of age, ibid.
Persons attaint, ibid.
Deserters, ibid.
Soldiers while quartered cannot acquire a settlement by hiring and service, ibid.
But they may by renting, ibid.
Statutes since the 1 Geo. 1. as to settlements repealed, ibid.
No person to acquire a settlement by being born of a mother confined in prison, or house licensed for the reception of pregnant women, 222
Child born in house of industry, ibid.
Prisoner on civil process, ibid.
No person maintained by a charitable institution to gain a settlement thereby, ibid.
Houses purchased or hired under stat. 59 Geo. 3. c. 12, as to settlement to be taken as part of the parish, ibid.
Of illegitimate Children.
Place of birth the place of settlement, 223
If born in a place by collusion, no settlement gained, ibid.
A woman going into another parish to be delivered, ibid.
If she go into a parish accidentally, and is persuaded to go into another to be delivered, ibid.
Bastards of lodgers, ibid.
Children born under an order of removal, ibid.
a suspended order, 224
while removing, ibid.
after removal reversed, before appeal, ibid.
A pregnant woman removed and delivered, pending the order, ibid.
Children born in the house of correction, ibid.
a county gaol, ibid.
house of industry, ibid.
under the act for establishing friendly societies, ibid.
of lunatics, &c. 225

SETTLEMENT OF THE POOR.
Of illegitimate Children.
Children born in a lying-in hospital, 225
room in a workhouse licensed under 13 Geo. 3. c. 82, not an hospital within the meaning of the act, ibid.
extra-parochial place, ibid.
Born under certificates, ibid.
of a certificated woman, ibid.
Where the certificate engages to provide for a woman and a child with which she is pregnant, 226
An unmarried woman under certificate, including the child with which she was big, ibid.
The certificate must state the woman to be single, ibid.
Birth is a good settlement, and the *onus* lies with the parish where the party is born to find another settlement, 227
The father's settlement the settlement of his children, if it can be found, ibid.
A child dropped in a parish may be removed to the place of birth, ibid.
Legitimate Children.
Where the parents are both dead, 228
Deserted children, ibid.
Foundlings, ibid.
Register evidence of birth, ibid.
As to the time of the birth of a child, ibid.
Hearsay declaration, ibid.
Evidence relating to Legitimacy.
Proof of the marriage of parents, 229
Registry and identity sufficient, ibid.
Parents may be examined as to the legitimacy of their children, ibid.
By Parentage derived from the Father.
Settlement of a legitimate child is with its parents, ibid.
At what age a person may gain a settlement, ibid.
Father settled in one place and child born in another, ibid.
Where the father gains a settlement after the birth of a child, 230
A child may be removed with the father, though he never inhabited, ibid.
The last parish is the settlement of the child, ibid.
Order of removal of nurse child, ibid.
Proof of settlement of the father sufficient to establish that of the son, ibid.
Father dying before child born, ibid.

SETTLEMENT OF THE POOR.
By Parentage derived from the Father.
Children take their father's settlement derived from their grandmother, 230
Settlement derived from the Mother during the life-time of the Father.
A man having no settlement running away, 231
An Irishman who has no settlement, ibid.
Foreigner having no settlement, ibid.
Father dead and mother continuing a widow, ibid.
Intermarriage does not alter the settlement, ibid.
Where after the death of the father the mother marries another husband, 232
Of the Emancipation of Children.
Son emancipated by father leaving him, and marriage of the son, ibid.
Son leaving his father and going into another county and marrying, ibid.
Marriage, and living separate from the father's family, ibid.
Marriage of itself no separation, 233
If no marriage, and the son carrying on business for himself, ibid.
Son enlisting for a soldier and returning after four years, ibid.
A son drawn as a militia-man, serving five years, and returning to his father's family, ibid.
A son treating his father's house as his home, and going about the country to work, ibid.
A child residing with a friend, and occasionally visiting his father's house as his home, 234
Child bound apprentice by a void indenture, ibid.
A child cannot be emancipated until he gains a settlement in his own right, ibid.
Gaining a settlement in his own right in a parish previously settled in, ibid.
Going from the father's house to service for eight weeks, then returning, ibid.
What will constitute emancipation, 235
General rule of emancipation, ibid.
A girl placed at the age of eleven with an uncle, and wholly maintained by him after twenty-one years, ibid.
A girl living with her grandfather, and maintained by him until his death, and afterwards with the grandmother, and maintained by her out of the grandfather's funds left by will, ibid.
An apprentice to a certificated person returning to his father at the age of nineteen, 236

SETTLEMENT OF THE POOR.
Of the Emancipation of Children.
The son of a certificated person bound apprentice, serving his time, and afterwards hiring himself in the certified parish, 236
A minor cannot be emancipated unless he marry, &c. ibid.
A minor enlisting into the marines, discharged, and returning to the father's family, ibid.
As to Settlement by Marriage.
Wife following husband's settlement, 237
Widow likewise, ibid.
Cannot gain a settlement distinct from the husband, ibid.
If a woman marry a man without a settlement, ibid.
If a woman marry a vagrant, who dies without having a known settlement, ibid.
Husband living, not having a known settlement in England, ibid.
An Irishman's wife, ibid.
Wife may be sent to her maiden settlement, if her husband is not known, and has run away, 238
Suspended settlement, ibid.
Husband living, but absent, ibid.
Removing a wife, it is sufficient, in the first instance, to prove her maiden settlement, 239
Removing a woman as a wife, ibid.
A previous marriage subsisting, ibid.
Not necessary to prove the publication of banns, ibid.
Residing under a false name, ibid.
Marriage by licence not in the man's real name, 240
Reputation proof of marriage, ibid.
Thirty years' cohabitation sufficient proof of marriage, ibid.
Mother may be called to prove she was never married, ibid.
Fraudulent settlement, ibid.
Conspiracy to gain settlement, ibid.
By Hiring and Service.
Persons hired into a parish, 241
Service in two parishes, ibid.
Unmarried persons not having any children, ibid.
One year's service necessary to gain, ibid.
Certificated persons, 242
Apprentice or hired servant of a certificated person, ibid.
Married man hiring himself subject to approbation, and wife dies, ibid.

SETTLEMENT OF THE POOR.
By Hiring and Service.
Marriage before entering on service, 242
between the contract and the beginning of the service, ibid.
does not defeat settlement, ibid.
Continued hiring, 243
Contract not dissolved by marriage, ibid.
A deserter gains no settlement, ibid.
Nor can a private soldier, ibid.
An emancipated child hired as a yearly servant, ibid.
Person hiring need not have a settlement in the parish, ibid.
Pauper hired out by parish officers, ibid.
Compulsory hiring, ibid.
Overseers giving clothes to a poor boy who hires himself out, 244
Living with a relation, and working at his trade for his board, &c. ibid.
Where there is no contract, ibid.
Presumptive hiring, ibid.
Remaining in service after the end of the year, ibid.
Hiring for less than a year, and service for three years, 245
Yearly hiring must be one entire contract, ibid.
Where there is a general hiring, ibid.
One person going into the place of another, ibid.
Where there is no mention of wages or time, ibid.
Retaining a servant generally, ibid.
Hiring without any stipulation, except for meat, &c. ibid.
Agreeing to go and live with a person for a particular purpose, 246
Hiring for fifty-two weeks, ibid.
Indefinite hiring, ibid.
An emancipated child serving her father for a year, ibid.
Living with a relation not under any hiring, ibid.
Assistant waiter at an inn, ibid.
Agreeing to work, and to be paid at a certain rate for what he should do, ibid.
Hiring from Whitsuntide to Whitsuntide, 247
If the service end before the following Whitsuntide, ibid.
Hiring two days after Michaelmas at a statute fair for less than a year, ibid.
the day after Michaelmas day, till the Michaelmas following, ibid.
on the afternoon of the 11th, ibid.

SETTLEMENT OF THE POOR.
By Hiring and Service.
the day after Martinmas, 247
three days after Michaelmas till the Michaelmas following, ibid.
Hiring under particular Conditions.
Hiring for a year, with liberty to part at a month's notice, 248
the like, with liberty to part at a month's wages or warning, ibid.
Conditional hiring as to liking, ibid.
Hiring for a year, part of which was past, ibid.
Hiring for a Year under particular Conditions as to Service.
To work by the great, ibid.
To make screws at per gross, ibid.
To make a certain quantity of bricks will not gain a settlement, 249
A pauper clubbed for three years, and to do any work he was set about, ibid.
The like when there was a stipulation to deduct proportion of wages, ibid.
Hiring for a year, and afterwards entering into an agreement for three years to learn to make bricks, ibid.
Verbal agreement by the father that his son should work for two years, ibid.
Parol contract, master to receive money for teaching pauper, 250
Parol agreement, ibid.
By Hiring and Service.
Limited or colourable Hirings for the Purpose of avoiding Settlements.
Hiring three days after Michaelmas till Michaelmas following, ibid.
for eleven months, 251
for eleven months, and to serve one month over, ibid.
Hiring with Leave of Absence.
Hiring for a year, with liberty of being absent for twelve days, ibid.
the harvest month, ibid.
for four years, with liberty to be absent a week every year, ibid.
for a year, with liberty of being absent on duty in the militia, ibid.
for a year, at 8s. a week, to serve a month over for a month absent during the year in the militia, ibid.

SETTLEMENT OF THE POOR.
By Hiring and Service.
Hiring with Leave of Absence.
A pensioner letting himself for a year, stipulating to have two days in each half-year, 252
Hiring for a year at so much a week, and to be absent at sheep shearing, ibid.
with liberty of going away a month at harvest, ibid.
the like from Michaelmas to Michaelmas, ibid.
Stipulations as to working Hours.
Hiring to serve three years and work twelve hours a-day, and to receive a certain sum if he worked more, 253
for three years to work eleven hours a-day, &c., ibid.
for seven years to work a certain number of hours a-day except Sundays, ibid.
the like for five years, ibid.
to work shearman's hours only, ibid.
If the exception be part of contract, ibid.
Hiring for a year as a bleacher to get up certain work in a week, 254
Merchant's clerk hired by the year, serving only during the usual hours of business, ibid.
by indenture for a year to work in a colliery, ibid.
for three years as a looker-on, 255
Weekly and monthly Wages, and Notice.
A week's hiring at 6s. a week with board, lodging, and washing, ibid.
Hiring at 4s. 6d. a week is not a general hiring, 256
When nothing is said as to hiring and wages paid weekly, ibid.
Hiring at per week for so long as parties agree, ibid.
by a servant in husbandry, at weekly wages, ibid.
Weekly wages of 8s. and two guineas for the harvest, ibid.
Wages and Notice.
Hiring by the week and agreement to part at a fortnight, or a month, 257
Month's wages or month's warning, ibid.
Hiring by the week the year round, ibid.
with liberty to part on a month's notice, ibid.
with liberty to part at a week's notice, ibid.
Weekly wages, either to be at liberty to part at a month's notice, ibid.

SETTLEMENT OF THE POOR.

By Hiring and Service.

What is a Service for a Year.

Hiring for a year, and service under it, 258
for half a year, and second hiring for a whole year, ibid.
at three weeks after Michaelmas to Michaelmas, and then serving eleven months, ibid.
from Christmas to Michaelmas, and then hiring for a year, ibid.
and service from Christmas to Whitsuntide, and then hiring for a year and service till March, ibid.
and service for less than a year, ibid.

Connected Service under different Hiring.

Hiring and service at weekly wages in one parish, and hiring and service for another year in another, 259
for a year under a renewed engagement, for another year, ibid.
Weekly hiring connected with a yearly hiring, ibid.
Hiring and service for a year, though a small part of the service is performed, ibid.
for a year, and service beyond the year without a new agreement, ibid.
from November to Michaelmas, and a confirmation of service afterwards without a new agreement, ibid.
Where a new contract is entered into on the last day of the first contract, 260
Settlement under two hirings, ibid.
Hiring for part of a year and fresh agreement, ibid.
for fifty-one weeks may be coupled with a yearly hiring, 261
Marrying during first service, ibid.
Service for less than a year, and marriage, and new contract, ibid.
Second agreement during the service for a second year, ibid.

Change of Master.

Servant continuing after the master lets his farm, ibid.

Of Dispensation.

Servant absenting without leave, and received back again, 262
Hiring for a year's serving, not coming into service until three days after, and being then received, ibid.
Servant running away and taken back, ibid.

SETTLEMENT OF THE POOR.
By Hiring and Service.
Of Dispensation.
Servant quitting on account of illness, and not returning, but paid her wages, 262
Absence on account of illness at the end of the service, ibid.
Hiring for a year, and not entering upon it on account of illness, 263
Master leaving his house before his servant's year is out, and paying wages, ibid.
becoming bankrupt, and servant discharged on receiving the whole years' wages, ibid.
Difference between master and servant, and wages paid in full, ibid.
Turning away a servant to prevent settlement, 264
Quitting a service to gain a settlement in another parish, ibid.
Master dying, and servant continuing with the widow, ibid.
Absence of the servant on the master's account, at his request, ibid.
Servant leaving on the last day of his year, ibid.
quitting thirteen days before the end of the year, but receiving full wages, ibid.
absenting with leave before the end of the year, and paying the master his earnings, 265
Service with other masters, with consent of the first master, ibid.
Servant committed to the house of correction on complaint of master, and afterwards returning and serving out the year, ibid.
the like for one month, which did not expire until after the end of the year, ibid.
Dissolution.
Servant quitting and providing another to supply his place, 266
turned away and taking his wages, ibid.
refusing to go again, but receiving his wages, ibid.
going away nine days before the year is out, ibid.
Ill treatment by master, ibid.
Master refusing to take a servant back, 267
Servant taken ill sending for his clothes, ibid.
hiring without specifying any time, according to the custom of the country, ibid.

SETTLEMENT OF THE POOR.
By Hiring and Service.
Dissolution.
Servant taken ill, receiving wages and going to the hospital, and not returning, 267
Where terms are mentioned, but no agreement, ibid.
Consent of the master for the servant to quit two days before the year is out, ibid.
Master turning away his servant and taking him back again under an order of justices, 268
Servant going away before the year is out with consent, ibid.
quitting and taking wages for the time he has served, ibid.
going with his master's consent to another service, ibid.
going away after six months' service, and receiving wages for the time, ibid.
Maid-servant discharged for bastardy, 269
A servant apprehended for bastardy, and detained from service, ibid.
Servant discharged and told to go where he liked, ibid.
Hiring before Martinmas, and no time of service mentioned, ibid.
Forty days' residence, 270
Infant pauper may gain a settlement by hiring and service with his father, ibid.
By Residence.
Less than forty days' residence, ibid.
The forty days need not be together, but within the year, ibid.
Service of the last forty days in different parishes, 271
Service with one master in different parishes, ibid.
A yearly servant serving forty days in one parish and going to another parish and serving above forty days, ibid.
Pauper settled where the last forty days' service is, ibid.
Settlement gained where the master never lived, ibid.
by service, though the master is only a visitor, 272
So a groom going from place to place to take care of horses, is settled in the last place, ibid.
Residence of more than forty days at a watering place, ibid.
Hiring in an extra-parochial place, ibid.
Yearly hired servant residing with his master at a watering place, ibid.

SETTLEMENT OF THE POOR.
By Hiring and Service.
By Residence.
Servant marrying during his service, and lodging with his wife for the last forty days in another parish, 273
A yearly servant is settled in the parish where he is hired, ibid.
By Apprenticeship.
54 Geo. 3. c. 107, not to affect settlements, 274
Certificates executed by one churchwarden, &c. valid, ibid.
Apprenticeship settlement, 275
If bound by indenture to a person residing under certificate, ibid.
Premium to be in words at length in the indenture, ibid.
Indentures of apprentices put out at the public charge to be free from stamp duty, ibid.
As also all agreements for that purpose, ibid.
Persons not removed within forty days, ibid.
An apprentice may gain as many settlements as there are spaces of forty days in the term of his apprenticeship, 276
As to the Instrument.
The binding must be by deed, ibid.
If the deed be not indented, but duly stamped, ibid.
The want of indenting is cured by the act, ibid.
As to the Parties.
An infant may bind himself, 277
of eight years may be bound, ibid.
The binding may be to an infant, ibid.
The condition of master not material, ibid.
If bound to a master who has no right to take an apprentice, ibid.
The apprentice gains a settlement in the parish where he serves, ibid.
If bound without consent, ibid.
The apprentice must be a party to the indenture, 278
A father cannot bind his infant son without his consent, ibid.
Indenture not executed by master, ibid.
Of the Term.
Binding for less than seven years, ibid.
till twenty-one years of age, ibid.
Unlimited binding, 279
The Binding and Allowances by Justices.
The indenture of parish apprentices not signed by apprentice, ibid.

SETTLEMENT OF THE POOR.
By Apprenticeship.
The Binding and Allowances by Justices.
The indenture executed only by the overseer of a township having no churchwarden, 279
A binding by one churchwarden, ibid.
trustees of a charity, ibid.
The allowance must be signed by the justices, ibid.
As to the signature, 280
If justices refuse consent, ibid.
The order of justices must be referred to in the indenture, ibid.
A pauper bound by order of two county justices, to a master in a parish within a borough in the same county, ibid.
Of the Stamp.
The indenture must be stamped, 281
The Consideration and Duty thereon.
If the duty of 6d. in the pound not paid, ibid.
Where no duty payable, ibid.
Public annual charitable subscription, ibid.
If a person is bound for a consideration bequeathed for that purpose, 282
When money is given by the grandfather to the master to clothe apprentice, ibid.
Money given by parish officers not liable to duty, ibid.
and need not be set out in indenture, ibid.
The father agreeing to provide meat, &c., and the master to allow weekly wages, ibid.
Apprentice agreeing to provide himself with meat, &c. 383
Agreeing to maintain apprentice on a Sunday, ibid.
Master reserving part of the earnings of his apprentice, ibid.
Where the stamp duty is on the sum agreed on, but a less sum paid, ibid.
Apprentice agreeing to allow his master 2s. a week out of his wages, ibid.
Of the Contract.
Intention to create a settlement, 284
Where indentures are not executed, ibid.
If the agreement be not stamped, ibid.
Serving as an apprentice without being indented, ibid.
Services of an apprentice not a service under a hiring, ibid.
Where there is an agreement to teach a trade, ibid.
Where there is an agreement on unstamped paper, 285
A verbal agreement to serve and have half the earnings, ibid.

SETTLEMENT OF THE POOR.
By Apprenticeship.
Of the Contract.
What is a defective contract, 285
Of Apprentice by Residence.
The settlement of the apprentice does not depend on the settlement of the master, ibid.
Binding and service will not make a settlement, ibid.
Working in one parish, the master lying in another, and the apprentice in a third parish, 286
Working and dieting in one parish and lodging in another, ibid.
Where apprentice resides forty days, on account of illness, and no service performed, ibid.
A residence merely on account of illness, ibid.
Apprentice sleeping in another parish and occasionally employed by his master, ibid.
A parish apprentice and his master, both on the staff of local militia, residing in the parish where the head-quarters are fixed, 287
Residence of seafaring Persons.
An apprentice to the sea lying on board the ship, but serving on shore, ibid.
An apprentice lodging, boarding, and serving his master on board a ship, 288
Apprentice serving forty days in the port, where he is sent by his master with coals, ibid.
Where an apprentice to a mariner, not having immediate occasion for his service, goes back to school and resides forty days there, 289
An apprentice to a mariner, with an agreement as to the service in the winter season, ibid.
An apprentice quitting the parish in which his master lives by his desire, returning to sleep in his master's parish without his knowledge, ibid.
An apprentice leaving his master's parish and service and sleeping in another parish, 290
Forty days' residence following is not necessary, ibid.
Service with different Masters without Assignment of the Indentures.
Serving another by leave of the first master, 291
Serving a third master by consent of the second, ibid.
Consent must be expressly given to serve a particular person, ibid.
An express consent to a second master, and a general leave to the apprentice, ibid.
A particular consent to a particular service, 292

SETTLEMENT OF THE POOR.
By Apprenticeship.
Mere Knowledge of the Master is not sufficient.
General consent and mere knowledge of second service, 292
General consent to go and work for himself, ibid.
Consent of the original master must be expressed, ibid.
Apprentice going into another service with leave of his mistress, 293
Apprentice bound till twenty-four, and serving till twenty-one, and then binding to another master, ibid.
Service with a second master by leave of the representative of the first, 294
Apprentice turned over by parol agreement, ibid.
Apprentice after serving forty days discharged by the widow of deceased master, ibid.
Continuing to serve under an indenture by leave of executors, ibid.
Service under actual Assignment of Indentures.
Apprentice assigned to a second master, and serving under the assignments, ibid.
Apprentice assigned to a second master by indorsement, 295
The agreement must be proved, ibid.
If indenture lost, ibid.
Apprentice and indenture delivered to a second master, and placed with a third, ibid.
Consent of the second master includes that of the first, ibid.
A parish apprentice assigned by the first master without the consent of two justices, 296
Of Service, the Indentures being delivered up or made void by Acts of the Parties.
Exchange of indenture of apprenticeship between master and apprentice, ibid.
Exchange of indentures is a cancelling, ibid.
Master becoming bankrupt, ibid.
Apprentice agreeing with his master for his discharge on certain terms, ibid.
Apprentice given up to his mother by his master on agreement to part, 297
Apprentice may be discharged, being under age, ibid.
Apprentice entering the king's service, ibid.
An infant binding himself for seven years, ibid.
Delivering up parish Indentures.
Indentures of apprenticeship delivered up by the first master, ibid.

SETTLEMENT OF THE POOR.
By Apprenticeship.
Delivering up Parish Indentures.
Master agreeing that apprentice shall work for his own benefit, 296
Parish apprentice cannot consent to his discharge, 298
Delivering up indenture to the apprentice under age, ibid.
A parish apprentice at full age may consent to his discharge, ibid.
A parish apprentice of full age leaving his master, and the indenture being delivered up, ibid.
A parish apprentice at full age paying money for his discharge, ibid.
Parish apprentice after the death of his master may hire himself as servant, 299
Apprenticeship under Certificate.
An apprentice of uncertificated man serving a certificated man, ibid.
Apprentice to a certificated man serving an uncertificated man, ibid.
A second certificate discharges a former one, ibid.
Apprentice bound, and serving twenty-two days before master obtained a certificate, ibid.
Apprentice to a certificated man, 300
Certificate extends to the apprentice of the widow, ibid.
Apprentice to a certificated man assigned to a parishioner, ibid.
Certificated persons must reside, ibid.
Certificate by friendly society not available, ibid.
As to the Evidence relating to Indentures of Apprenticeship.
If indenture lost, ibid.
Proof of indenture being lost, 301
If not produced in evidence, ibid.
Of notice to produce the indenture, ibid.
The execution must be proved, by whom, ibid.
By renting a Tenement.
Tenement under 10l. a year, ibid.
Certificated persons, ibid.
Collectors of tolls, &c. ibid.
Prisoners for debt, 302
Forest of Alice Holt, ibid.
Persons formerly were removable within forty days, where, ibid.
If of 10l. per annum value, ibid.
After July, 1819, ibid.
22d June, 1825, ibid.
Nature of the tenement, 303

SETTLEMENT OF THE POOR.
By renting a Tenement.
Hiring, rent, and term, 303
Occupation, ibid.
Payment of rent, ibid.
Prisoners for debt, ibid.
What constitutes such a Tenement as will confer a Settlement by Residence.
Renting a coney warren, ibid.
Though the tenant has no right to the soil, 304
Renting a fishery, ibid.
Liberty to take gravel from a river, ibid.
Renting a cattle gate, ibid.
right of common, ibid.
tolls of a market, ibid.
a water or wind-mill, ibid.
Taking the pasture of land, ibid.
Renting hay, grass, and aftermath, 305
ponds, ibid.
fogg or aftergrass, ibid.
Growing corn bought at an auction, ibid.
Renting a dairy, ibid.
cows to be fed on the owner's lands, ibid.
as to where the cows are fed, 306
Contract to feed cows generally, ibid.
for milking cows, ibid.
for a pasture fed cow for the evening, ibid.
Pauper hired as bailiff, and to have the feed of two cows, ibid.
The like to a farmer, with leave to feed two cows, ibid.
Contract for wages, and the agistment of cows, 307
A pauper hired as a shepherd at so much a week, with the run of thirty sheep, ibid.
A pauper hired for a year, and had a house, garden, and potatoe land, and the keep of a cow, ibid.
Occupation under different hirings may be connected so as to make a hiring for a year, 308
Waiter at an hotel having a tap, with privilege of selling beer, ibid.
Occupation as a servant and not as a tenant, ibid.
Machinery of a mill, 309
Renting pointing places in a mill, ibid.
runners in a mill, ibid.
a standing place for a carding machine, ibid.
Master of a charity school, ibid.

SETTLEMENT OF THE POOR.

By renting a Tenement.

Renting a tenement under 59 Geo. 3. c. 50, 309
what the tenement must consist of, 310
Renting of different persons at different times, ibid.
Pauper hiring a house at 10l. a year, and putting his furniture in worth 15l., ibid.

As to the Nature of the Tenement under the 13 and 14 Car. 2. c. 12, *and* 9 and 10 W. 3. c. 11, *and how the Value is to be ascertained.*

The quantity of rent not material, 311
Rent of 10l. given in contemplation of improvements by the landlord, ibid.

Value of Stock on a Tenement not to be computed as Rent.

Value of stock does not alter the value of the tenement, ibid.
Land taken ready sown, 312
Renting land improved in value, ibid.
ready ploughed and manured, ibid.
Value beyond the rent paid, ibid.
Furnished room with fire and candle, ibid.
The value of a chattel placed on land by a tenant cannot be added to the rent, ibid.
The value of the tenement is to be estimated by its annual value to let by the year, ibid.
Renting where the landlord pays taxes, 313
If an agreement be lost, parol evidence of its contents may be given, ibid.
The effects of 6 Geo. 4. c. 57, as to conflicting testimony of witnesses proving the value of the premises in question, ibid.

Divided Tenements.

Renting a tenement of one person and land of another, ibid.
As to a tenement lying in different parishes, 314
Renting distinct tenements taken at different times in different parishes, neither of them amounting to 10l. a year, ibid.
Residing on a tenement part given out of charity and in another parish, ibid.
Occupation as tenant cannot be coupled with occupation as landlord, ibid.
Land must be situated in the parish where the house is, 315.

Joint Occupation.

Renting a tenement, which, when divided between two will not produce 10l. a year for each tenant, ibid.

SETTLEMENT OF THE POOR.

Joint Occupation.

Renting jointly 52l. a year, both will gain a settlement, 315

A joint partner in a farm, ibid.

Renting one entire tenement and part of another jointly, ibid.

one and occupying jointly with another, ibid.

A tenant renting and letting off part to undertenants, 316

As to the Payment of Rent.

Renting a tenement with surety for the payment of the rent, ibid.

The wife of a soldier (deserter) renting a tenement, ibid.

Renting a tenement of 20l. a year, and residing forty days therein sufficient, ibid.

Toll-keeper, 317

Renting tolls and residing in the toll-house, ibid.

tolls of a bridge, ibid.

Occupation of a toll-house and tolls of a bridge, ibid.

A foreigner not an alien enemy, but an alien amy, ibid.

A soldier whilst with his regiment, 318

As to Time and Place.

Residing less than forty days, ibid.

Forcible removal within forty days, ibid.

Going to prison in a parish different from the parish where the tenement is, and not residing forty days, ibid.

A residence by a widow on a tenement of 20l. a year value, cannot be coupled with a residence on the same tenement with her husband, ibid.

A tenant in the rules of the fleet holding a tenement in the same parish, 319

Where the residence must be, ibid.

Renting in one parish and residing in another, ibid.

Residence in different parishes, and in one of them for forty days, the settlement is where the pauper sleeps the last night, ibid.

The tenement must be held for a year, ibid.

Hiring a tenement for more than 10l. a year, and residing more than forty days, but less than forty days before the 2d day of July 1819, ibid.

The tenement must after the 22d June 1825 be rented at 10l. a year, &c., 320

SETTLEMENT OF THE POOR.
As to the Time for which the Contract is made.
As to time and value, 320
Taking a tenement for eight months, ibid.
Removal will not end the contract, ibid.
The taking after July 1819 must be for a year, ibid.
how after 22d July 1825, ibid.
Fraudulently taking, 321
By Estate.
Purchase of an estate under 30l. by 9 G. 1. c. 7. s. 5., ibid.
As to the Value of the Estate.
As to the value of the estate, ibid.
As to infants, 322
An executor, ibid.
As to next of Kin.
No right until letters of administration, ibid.
Next of kin in equal degrees, ibid.
Widow and children, 323
Husband of administratrix, ibid.
Coming to a tenement by executorship, ibid.
Executor to a tenant of an estate under 10l. a year, ibid.
Sole next of kin and administration after forty days' residence, ibid.
A devise to the use of trustees for the benefit of a brother and his family, ibid.
Widow having right of dower and residing on the estate, 324
The interest of a widow before assignment of dower, ibid.
Joint Tenants, Trusts, Estates, vested in the Husband by Marriage, Guardian in Socage, &c.
Estate devised to a wife during widowhood, ibid.
vested in trustees for the use of a wife, ibid.
Freehold descending to wife and sisters as copartners, ibid.
Freehold subject to one thousand years' lease at a peppercorn rent, 325
pauper residing on such an estate claiming right for four years, ibid.
An estate purchased by husband for less than 30l. ibid.
settled after marriage to wife's use, ibid.
Guardian in socage residing on ward's estate, ibid.
The mother of an infant copyholder, legal guardian of the copyhold, ibid.
No guardian in socage of an equitable estate, 326

SETTLEMENT OF THE POOR.
By Estate.
Joint Tenants, Trusts, Estates, vested in the Husband by Marriage, Guardian in Socage, &c.
Lease granted by a lord of a manor for thirty-one years, administration to the widow, and residence in the cottage, 326
Purchase of an estate for less than 30l. by a woman before marriage, ibid.
A cottage devised, with liberty for the paupers to dwell in it during their lives, gains a settlement, ibid.
A schoolmaster residing forty days in school-house, 327
As to Estates gained wrongfully or by imperfect Contracts.
Living in a cottage which came by descent to the pauper, ibid.
in a cottage built without consent of the lord of the manor, ibid.
Cottage built on waste, occupied by the pauper for thirty years, ibid.
House built with borrowed money for the residence of father and mother, ibid.
Son built a house on land given to him by his father, 328
As to Profits partaking of the Realty.
Living on a leasehold estate, having a rent charge thereout, ibid.
Right of stinted common of pasture, ibid.
As to Mortgages.
Estate conveyed to trustees to be sold, 328
Mortgager and mortgagee in possession, ibid.
living on mortgaged premises, 329
Cottage leased for years determinable, or lives conveyed by a woman and her husband in mortgage, ibid.
As to Estates by Purchase.
Purchase of an estate under 30l., ibid.
Children residing with their father on a purchase under 30l. ibid.
Surrender of copyhold tenement by father to son, 330
Conveyance from father to daughter in consideration of natural affection, ibid.
Conveyance from father to son in consideration of natural affection, and 10l. in money, ibid.
Grant of waste land under 30l., ibid.
New grant of copyhold where there is no custom, ibid.
Grant of copyhold (paying rent) under 30l. value, ibid.
House built on the waste by licence from the lord, sold for 30l. at 1s. rent, 330

SETTLEMENT OF THE POOR.

By Estate.

As to Estates by Purchase.

Residing on an estate granted for lives, for a consideration and quit-rent, 331

Purchase of 30l., part of which paid by the officers of another parish, ibid.

Purchase for 39l., 30l. of which was borrowed, ibid.

of a cottage in mortgage, afterwards paid by borrowing the money, ibid.

of premises for 39l. 17s. 6d., 32l. of which was never paid, ibid.

for 52l., 40l. of which secured by mortgage to the vender, and afterwards sold for 60l., ibid.

More than 30l. of purchase money paid, but no conveyance, 332

As to Residence by a Mortgagee.

Mortgagee entering as a principal creditor, ibid.

As to Money laid out on Premises.

Laying out money on premises, 333

As to residence on an Estate of the Pauper.

A woman cannot be removed from her husband's estate, ibid.

A demised contract to let during the life of a child, and to pay rent, &c. to her, ibid.

By Residence.

As to a certificated Person gaining a Settlement by Residence on his own Estate.

Certificated person may gain a settlement by residence on his own estate, 333

When pauper not removable for forty days, 334

An apprentice to a certificated man may gain a settlement in forty days' residence, ibid.

Where leasehold is purchased and descends to a certificated person, ibid.

Twenty years' possession by a certificated person, ibid.

An estate devised to the wife of a certificated person, 335

As to a Residence upon a man's own Estate.

A man living in a parish where he has land, ibid.

Husband running away, wife having a house devised to her, ibid.

Residence upon the same estate is not necessary, ibid.

in the parish where the estate is situated, ibid.

SETTLEMENT OF THE POOR.
By serving an Office.
As to what Office will confer a Settlement.
Serving a public annual office, 336
Taking a lease, ibid.
Serving as deputy to another, ibid.
Constable serving by deputy, ibid.
Parish clerk, ibid.
Incorporated parishes under 22 Geo. 3, 337
Certificated person executing the office of parish clerk, ibid.
Serving the office of clerk in a chapel in an extra-parochial vill, ibid.
Curate not a public officer, ibid.
Sexton a public officer, 338
Warden for a borough, ibid.
Constable of a city, ibid.
Tithingman, ibid.
Entering upon office, but not sworn, ibid.
Borsholder, ibid.
Hog-ringer, ale-taster, and hay-ward, 339
Bailiff or ale-taster for a borough, ibid.
Schoolmaster, ibid.
Collector of duties on births and burials, ibid.
Collector of land-tax, ibid.
Governor of a workhouse, ibid.
Master of a workhouse, ibid.
As to the Time.
Serving part of a year only, 340
Custom to serve half a year at a time, ibid.
A person sworn in as borsholder irregularly discharged, ibid.
As to the Residence.
As to the residence, ibid.
The office must be executed in the parish, 341
Forty days inhabitancy, ibid.
By paying Rates.
As to paying towards the Taxes and Levies of the Parish.
A person charged with and paying taxes, &c., ibid.
Paying taxes of a tenement under 10l. a year rent, ibid.
No settlement acquired by paying rates for any tenement, unless it is a separate dwelling-house, &c., ibid.
Occupying part of a tenement, 342
Being rated and paying parochial taxes, ibid.
Residing under certificate, and paying taxes, ibid.

SETTLEMENT OF THE POOR.
By paying Rates.
As to Inhabitancy.
Rated in one parish, but residing in another parish, 342
Who shall be charged.
Paying rates when the rate is informal, 343
Name inserted if the rate is paid, ibid.
The Tenant is to be charged, and not the Landlord.
The party paying must be the party charged, ibid.
The rate must be made upon and paid by the person claiming settlement, ibid.
Rate must be on the occupier, and no one else, ibid.
But a person may be rated by another description than as occupier by name, ibid.
And so where the tenant is rated as tenant, 344
The description must be sufficient to charge the tenant, ibid.
Where the rate is made in any other way than by name, ibid.
The rate must be produced as evidence, ibid,
By paying Taxes.
Landlord refunding to tenant, ibid.
Salary to a tidewaiter, 345
of an excise officer, ibid.
a custom-house officer, ibid.
Land-tax a tax within the act, ibid.
Presumption as to the party rated, ibid.
Church rate public tax, 346
Rate made too narrowly, ibid.
Scavengers and highways rates, ibid.
County rate, ibid.
Operation of 12 Geo. 2. c. 29, in this case, ibid.
Paying taxes for a tenement of less than 10l. a year, ibid.
assessed taxes, ibid.
By Certificate.
Parish officers are not obliged to grant certificates since stat. 35 Geo. 3. 347
Persons coming to inhabit in any parish or place, and bringing with them a certificate under the church-wardens' hands, &c. owning them to be inhabitants of such other parish, the said other parish to provide for them whenever they ask relief of the parish to which such certificate was given, and shall not be removed, ibid.

SETTLEMENT OF THE POOR.
By Certificate.
Explanation of the above, 348
After 24th June 1713, any person bound apprentice, or being a hired servant to one who came into a parish by certificate, shall not gain a settlement there by reason of such apprenticeship, &c., ibid.
Witnesses to certificates of settlement, to swear that they saw the churchwardens, &c. sign them, 349
Form of certificate, ibid.
Allowance of by two justices, 350
As to the Form of the Certificate.
Misdirected or non-directed certificate not void, ibid.
Certificate need not be directed to the parish, 351
A particular parish must be in contemplation, ibid.
How it must be signed, ibid.
If not signed by a majority, void, ibid.
Certificates granted before 51 Geo. 3. c. 80, ibid.
Not to affect settlements gained before the passing of 54 Geo. 3. c. 107, ibid.
Certificate granted by one churchwarden and overseer, 352
Certain notices and certificates made valid by 1 and 2 Geo. 4. c, 32, ibid.
Certificate to be signed by two justices, ibid.
How far they are obliged to sign, ibid.
Justices who allow may attest it as witnesses, ibid.
Certificate of more than thirty years' date, 353
Evidence on appeal of the delivery of certificate, ibid.
As to the sealing of a certificate, ibid.
Certificate stated to be allowed according to act of parliament, ibid.
Production of certificate more than thirty years old sufficient, 354
As to the Delivery of the Certificate.
Delivery of certificate, ibid.
As to the Protection by Certificate from Removal.
Persons by certificates protected from removal, ibid.
As to what Persons a Certificate extends to.
A certificate extends to all the family of the certificated man born either before or after it was granted, 355
Certificate granted to a single woman with child, ibid.
Certificate to an unmarried woman agreeing to receive all her children, ibid.
Grandchildren, &c., 356
If children named in certificate, ibid.
The name of child omitted intentionally, ibid.

SETTLEMENT OF THE POOR.
Of the Effect of a Certificate.
Certificate as of a man and his wife, and it afterwards appears they were never married, 357
conclusive against the parish, though the parties were not married, ibid.
including by mistake a bastard, conclusive against the parish, ibid.
in case of a second marriage, ibid.
conclusive, although not delivered till after the removal, ibid.
where, not conclusive, ibid.
not binding against a subsequent one, 358
not restrictive from gaining a settlement in a third parish, ibid.
person at large, ibid.
as to hiring and service, ibid.
Extent of a certificate, ibid.
As to the Continuance of Certificates.
A voluntary removal to a third parish is not of itself a desertion of the certificate, ibid.
Where a certificate discharged, 359
Certificate discharged by estate coming to a man by demise or purchase, ibid.
also by removal, ibid.
When a certificated man returns to the certifying parish, ibid.
How far a certificate, granted to a man and his wife, engaging to receive them, their child or children born, or to be born, extends, ibid.
Returning to certifying parish after certificate, and having a child who marries and has a family in certificated parish, 360
Certificated person going to a third parish, ibid.
Leaving certificated parish without any intention of returning, ibid.
Temporary removal of certificated person, ibid.
The son of a certificated person hiring and serving in the certifying parish, ibid.
As to Removing Certificated Persons.
None but those who ask relief, 361
Son and family not residing with his father, ibid.
A certificated pauper may be removed to where he gained his settlement by certificate, ibid.
As to Apprenticeship under Certificate.
An apprentice to a certificated man, ibid.

SETTLEMENT OF THE POOR.
As to Acknowledgment of Settlement by Relief.
Receiving relief is no proof of settlement, 361
Relief given many times no proof of settlement, ibid.
to a family residing in another parish, 362
while residing in other places, ibid.
Proof of relief by appellant parish before 1815, ibid.
As to Acknowledgment of Settlement by Order of Removal not appealed against.
Order of removal unappealed against is conclusive, 363
SURGEON.
Exempt from serving office of churchwarden, 31
constable, 489

TITHES.
Of small Tithes due from any Person.
Tithes, offerings, &c. not paid in twenty-one days after demand, 477
Justices, on complaint, to issue a summons and determine the complaint, ibid.
Refusing to pay in ten days after notice, 478
Appeal to the next general quarter sessions, ibid.
If judgment affirmed justices to give costs against the appellants, ibid.
Persons complained of insisting on a composition, &c. and giving security to pay costs, justices not to give judgment, ibid.
Where a person is summoned and ordered to pay, not raising the question of title to setting up a modus, 479
Justices cannot try the question of title, ibid.
Persons against whom judgment shall be affirmed removing out of the county, ibid.
Judgment to be enrolled at the next sessions, ibid.
The recovery of small tithes extended to 10l., 480
One justice may receive the original complaint, ibid.
Tithes are not recoverable after six years from the time they became due, ibid.
Of Tithes, Church-rates, &c. due from Quakers only.
Quakers refusing to pay or compound for tithes, church-rates, &c. ibid.
summons, ibid.
one justice may receive the original information, 481
hearing, ibid.
adjudication, ibid.
distress and sale, ibid.

TITHES.
Of Tithes, Church-rates, &c. due from Quakers only.
when the warrant of distress should be made out, 481
distress may be immediately sold, ibid.
Proceedings limited to two justices not interested, 482

VESTRIES.
Of the Regulations of parish Vestries, under the 58 *Geo.* 3. *c.* 69.
Notice of holding vestry, 166
Chairman to be appointed in the absence of the rector, vicar, or perpetual curate, ibid.
Manner of voting, 167
Persons may vote who are liable to be rated, although not actually rated, 168
Persons refusing or neglecting to pay rate after demand, not to vote until the rate is paid, 168, 171
All books, accounts, and vouchers, to be kept by such persons and in such place as the vestry shall order, 168
Wilfully destroying parish books, ibid.
All the provisions of 58 Geo. 3. c. 69., to extend to townships, vills, &c. 169
Not to alter the time of holding vestries, directed to be held on any certain day by any other act, ibid.
Act not to extend to parishes in the city of London, 170
Persons assessed, and not residing in the parish, may attend and vote at vestry, ibid.
Vestry clerk is not obliged to produce parish books, ibid.
The clerk, secretary, steward, or agent of a corporation, body politic or corporate, or company, may be present and vote in vestry, ibid.
Of select Vestries, under 59 *Geo.* 3. *c.* 12.
The inhabitants of any parish may establish a select vestry, 171
A select vestry existing by ancient custom cannot elect another select vestry under this act, 173
In case of complaint to a justice of want of relief by a poor inhabitant, ibid.
Number of select vestry to be entered in a book of all their meetings, proceedings, &c. and of all money received and expended, 174
Ten days' notice to be publicly given in the usual manner of a vestry, for the purpose of establishing a select vestry, 175
Justices only to act within their own jurisdiction, ibid.

VESTRY CLERK.
How appointed, 36
By whom chosen, 176
Duty, &c. of, ibid.

WAGES.
Disputes about.
See tit. "PARISH APPRENTICES."

WASTES.
Relief by enclosing, 99
Agreement for enclosure must be in writing, 100
Appeal lies to the sessions within six months, ibid.

WEIGHTS AND MEASURES.
Weights.
Inhabitants in vestry may appoint examiners of weights and balances, 486
No such appointment to be made till the inhabitants have procured standard weights, the costs of which, and the recompense to the examiners, to be paid out of poor's rate, ibid.
Examiners, when directed by justices, to enter shops, &c. and try scales, weights, &c. ibid.
Penalty for false weights, balances, &c. 487
False weights to be broken, ibid.
Obstructing inspectors, or refusing to produce weights, &c. ibid.
Measures.
Majority of inhabitants may nominate five examiners, 488
No appointment to be made until measures procured, &c. ibid.
Expenses to be paid out of the poor's rate, ibid.

THE END.

LONDON:
PRINTED BY THOMAS DAVISON, WHITEFRIARS.

DW ARP FWp
Lex parochialis or, A compend
Stanford Law Library
3 6105 044 319 445